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**ABSTRACT**

In one of a series of hearings held in communities around the nation on the reauthorization of the Higher Education Act of 1965, the Subcommittee on Postsecondary Education met to hear testimony from higher education administrators in the state of Texas on Titles III and IV of the Act which concern minority access to higher education and support for historically black colleges and universities. Included in the testimony were such aspects of these Titles as federal regulation of aid to proprietary schools, student loan programs, and educating the work force. The witnesses included Comer Alden of The San Antonio College of Medical and Dental Assistants; Adolfo R. Barrera of Southwest Texas State University; Julius W. Becton of Prairie View A&M University; Dee Bednar of the Texas State Department of Education; Doris Blocker, student, Houston Community College System; Garth Davis of the University of Texas at Austin; Ronnie J. Davis, Jr., Council of Student Organizations, Prairie View A&M University; Michael Gallegos, student, Houston Community College; Charles Green of the Houston Community College; William Harris of Texas Southern University; Herbert Hayre of the National Education Association; Joseph L. McCormick of the Texas Guaranteed Student Loan Corporation; Joseph T. McMillan of Houston-Tillotson College; Erica Moshay, student; and Arturo Pacheco of the University of Texas at El Paso. Prepared statements are included along with letters and supplemental material that includes a report by the Joint Interim Committee on Proprietary Schools submitted to the Texas legislature. (JB)

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**OVERSIGHT HEARING ON THE REAUTHORIZATION  
OF THE HIGHER EDUCATION ACT OF 1965:  
HOUSTON, TEXAS**

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**HEARING**  
BEFORE THE  
SUBCOMMITTEE ON POSTSECONDARY EDUCATION  
OF THE  
COMMITTEE ON EDUCATION AND LABOR  
HOUSE OF REPRESENTATIVES  
ONE HUNDRED SECOND CONGRESS  
FIRST SESSION

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HEARING HELD IN HOUSTON, TX, JULY 22, 1991

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**Serial No. 102-76**

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# **OVERSIGHT HEARING ON REAUTHORIZATION OF THE HIGHER EDUCATION ACT OF 1965**

**MONDAY, JULY 22, 1991**

**HOUSE OF REPRESENTATIVES,  
SUBCOMMITTEE ON POSTSECONDARY EDUCATION,  
COMMITTEE ON EDUCATION AND LABOR,  
*Houston, TX.***

The subcommittee met, pursuant to notice, at 9:45 a.m., in the C. T. Rhinehart Auditorium, 3100 Cleburne, Texas Southern University, Houston, Texas, Hon. Craig A. Washington presiding.

Members present: Representatives Washington and Jefferson.

Staff present: Tom Wolanin, staff director and Diane Stark, legislative associate.

Mr. WASHINGTON. This hearing in Houston, Texas of the House Subcommittee on Postsecondary Education of the Education and Labor Committee will come to order.

By unanimous consent, we will take testimony of the presidents of Prairie View and Texas Southern in that order, out of order. As I explained earlier, and I have explained to my colleague, I would like to thank the Honorable William J. Jefferson for coming over from New Orleans, Louisiana to make this hearing possible.

He is a first-term Member of the Congress and of the committee. He brings with him quite a reputation in the area of education and finance, something that is near and dear to the hearts of all of you, and of course, to the Congress of the United States.

A dedicated reformer on behalf of education, who understands quite well the necessity for Federal as well as State funding of higher education, and I am sure you will hear that exemplified in his remarks, which he has agreed to delay until later.

So at this time, we will hear from General Julius Becton, President of Prairie View A&M University.

**STATEMENT OF JULIUS W. BECTON, JR., PRESIDENT, PRAIRIE  
VIEW A&M UNIVERSITY; ACCOMPANIED BY: JOANNA THOMAS-  
SMITH, ASSOCIATE VICE-PRESIDENT OF ACADEMIC AFFAIRS,  
PRAIRIE VIEW A&M UNIVERSITY**

Mr. BECTON. Thank you, Mr. Chairman. Mr. Jefferson, distinguished colleagues, ladies and gentlemen, I am Julius Becton, the president of Prairie View A&M University of Prairie View, Texas.

I am accompanied by Dr. Joanna Thomas-Smith, the associate vice-president of academic affairs, who I hope, Mr. Chairman, will be able to take my place on the platform when I depart, as you

pointed out, to go to a hearing in Austin to see if we cannot help your former colleagues to do what is right.

I commend you and the leadership for holding this hearing on such issues vital to the preservation of historically black colleges as a national resource.

Today I speak as an eyewitness to the educational process at HBCUs: I was a student at Prairie View A&M University; I have returned to Prairie View A&M University as President. I, along with 100,000 other graduates and ex-students, can attest to the vital role our university and its companion institutions have played and continue to play in American life and culture.

The story of the Historically Black Colleges and Universities is a symbol of what America owes every citizen: access, equality, opportunity. And I realize, gentlemen, in speaking to the two of you, I am speaking to the choir, but I appreciate the fact that you are here.

While my colleagues and I will cover some of the same territory as we enunciate the contributions of the HBCUs, delineate their continuing needs, and offer future proposals for development that the reauthorization could endorse, I submit that our story of triumph cannot be told too often.

Historians at my institution liken the HBCUs' survival and growth to the miraculous handiwork of making brick with straw. Without a doubt these institutions will figure largely in America's success in the global arena.

Mr. Chairman, I am reading from a prepared sketch, but I will skip some of the next part of my prepared remarks which deal with Prairie View and what Prairie View is all about. I am sure that you know what I am going to say there, so I will skip that portion.

Mr. WASHINGTON. Thank you, General Becton, and let me say for all of the witnesses, those on the panel and those on future panels, without objection, all of the prepared statements will be introduced into the record along with any supporting documents.

And you may feel free to ad lib, read, or whatever you wish to get your sentiments across. In addition thereto, you will notice that a complete record is being made so that all of our colleagues who were unable to come to Houston today will have an opportunity to review everything that you either submit for the record or transmit orally by your testimony.

Mr. BECTON. Thank you, sir. Despite the feats achieved in the face of tremendous odds, public HBCUs like Prairie View A&M University can always hear at least one voice that argues vehemently against continuation of HBCUs, suggesting that in tight economic times the State cannot afford to support all of its colleges and universities and insisting that HBCUs be the ones closed or under-funded, since they are no longer needed.

It is at such times that highly visible, unabashed support sustains the hope of our students and staff. And just this morning, in reading the *Houston Chronicle*, I read a report about the fact that the Department of Justice seems to be taking the role of those who are saying HBCUs no longer deserve the treatment they have been receiving. We must be on guard at all times, in my judgment.

Among the HBCUs' many contributions are the following miraculous realities of the dare to dream:

1. HBCUs succeeded in lifting the veil of ignorance from former slaves, for whom it was illegal to learn to read, write, or compute.

2. HBCUs produced the lion's share of black nurses, physicians, educators, military officers, scientists, pharmacists, and other leaders.

Prairie View, as an example, produced more black medical college entrants than any other institution in the State of Texas and is one of the largest producers of black medical school entrants in the country.

Prairie View stands as one of the top five producers of engineers at the baccalaureate level. And Prairie View counts among its distinguished alumni and ex-students General Calvin Waller, the leader of the ground forces in the recent successful Operation Desert Storm; Lois Moore, here in Houston, Director of the Harris County Medical District in Houston; Percy Sutton, corporate owner and investor; Dr. Margaret Grigsby, physician; and, of course, the distinguished Chairman of the committee today, the Honorable Craig Washington.

3. HBCUs confer over 30 percent of the baccalaureate degrees to black undergraduates despite HBCUs enrolling only 27 percent of African-American students.

4. HBCUs have become a portrait of multi-ethnic diversity in higher education. At Prairie View, as an example, we have a student population that is 16 percent non-black. We have a faculty that is 28 percent non-black.

5. HBCUs serve people and institutions in communities. Prairie View, as an example, reaches 25 Texan counties, touching 100,000 families, through the Cooperative Extension Service Program for youth and senior citizens as well as small business owners, including farmers.

6. HBCUs maintain a meaningful presence in research.

At Prairie View, we are a major participant in the Superconductor Supercollider Program with our particle detection research center.

7. HBCUs have broadened their scope of programs and recruitment to attract and retain highly talented minority youths in underrepresented fields. Our Benjamin Banneker Honors College is a major contributor to the graduate and professional schools.

And last point, HBCUs have produced role models and mentors not readily available in communities inhabited by minority and low income Americans. Again, Prairie View is a major player.

In her study, "Blacks in College," Dr. Jacqueline Fleming found that black students experienced greater academic and personal growth at HBCUs.

Now, for Title IV of the reauthorization, this entitlement is the centerpiece of student aid at HBCUs, and any changes in it must stimulate college-going rates of minorities and graduate professional school production.

A policy whose preference is more loans, fewer grants, is equally unattractive to students from low and middle income families. Let me note here that this is critical to us at Prairie View, and that we enroll students from both ends of the spectrum: the low income,

whose family cannot contribute to the cost of their education, and the middle income families who earn just enough not to qualify for aid but not enough to substantially support their progeny through college and pay bills at home, too.

Like other NAFEO institutions, Prairie View clientele would best benefit from acceptance of the following recommendations:

First, increase the maximum allowable Pell grant from \$2,400 to \$6,500. Current levels have virtually ignored the increase in college costs over the past decade, thus increasing the need for students to borrow.

Next, simplify the need analysis system as well as the financial aid application process. Eliminate the imbalance of grants to loans. Permit institutions greater autonomy in campus-based aid.

Recognize and respond to the need for scholarships for talented minority students in all fields. Providing new authority for direct lending.

Moving to Title III, in the legislative language, it is clear that the purpose of Title III is to strengthen the eligible institutions by stating "capacity to make a substantial contribution to higher educational resources of the Nation."

One shudders to think of how the HBCUs would have fared without Title III fundings, especially during the recent years when State budget and private coffers for higher education shrank.

While we in Texas have experienced remarkable programs and facility improvement since 1980, we at Prairie View A&M University still suffer from resources too meager to finance substantial curriculum strengthening; administrative and management systems; research programs and facilities; maintenance of our physical plant; attraction of a large cadre of recognized leaders in unrepresented fields; and successful competition for highly competent students who expect and deserve attractive scholarship offers beyond those offered by our Benjamin Banneker Honors College.

In the academic area, Title III funding at Prairie View A&M University has helped to meet critical needs associated with educating both the underprepared and high achievers. The impact has been the establishment of several centers and services:

First, the Accelerated Learning Resource Center; the Chemistry Laboratory Development; MATHNET; Academic Advising Center; Curriculum and Instruction Improvement Laboratory; and lastly, Creative Design.

In short, Title III funds at Prairie View A&M University have made the following possibilities realities: Broadening the academic support services; compliance with the State mandate for mandatory testing and remediation; provisions of faculty development opportunities; provisions of student employment opportunities; and lastly, enhancement of advanced technology, state-of-the-art equipment and laboratory rehabilitation and renovation above minimal levels.

It is my belief that Historically Black Colleges and Universities will continue to be recognized for the contributions made under far less than ideal circumstances. It is my fervent hope that in the reauthorization process neither budget deficit nor crises of confidence be allowed to cause our country to renege on a commitment made

during the passage of the first major education access policy, the National Defense Act:

"The security of the Nation requires the fullest development of the mental resources and technical skills of its young men and women . . . This requires programs that will give assurance that no student of ability will be denied an opportunity for higher education because of financial need."

Mr. Chairman, Mr. Jefferson, distinguished colleagues, thank you for the opportunity to testify before you on such a critical issue as the need to guarantee access and equality in higher education to all citizens, regardless of race, creed, color, or national origin.

Thank you, sir.

[The prepared statement of Julius W. Becton, Jr. follows:]

**JULIUS WESLEY BECTON, JR., PRESIDENT  
PRAIRIE VIEW A&M UNIVERSITY**

**A TESTIMONY BEFORE THE SUBCOMMITTEE ON EDUCATION AND LABOR  
ON  
THE REAUTHORIZATION OF THE HIGHER EDUCATION ACT**

**TEXAS SOUTHERN UNIVERSITY  
HOUSTON, TEXAS  
JULY 22, 1991**

Mr. Chairman, representatives of the Congressional Black Caucus, distinguished colleagues from other NAPEO institutions, ladies and gentlemen, I am Julius Wesley Becton, Jr., President of Prairie View A&M University, Prairie View, Texas. As the 102nd Congress considers the sixth reauthorization of the Higher Education Act, it becomes imperative that the policies be made to respond positively to continue support of a truly American treasure, the Historically Black Colleges and Universities (HBCUs). How these institutions fare through the current decade will very likely be a barometer of what blacks and other minorities can expect well into the 21st century. I commend the leadership for holding this hearing on such issues vital to the preservation of historically black colleges as a national resource.

Today I speak as an eyewitness to the educational process at HBCUs: I was a student at Prairie View A&M University; I have returned to Prairie View A&M University as President. I, along with 100,000 other graduates and ex-students, can attest to the vital role our university and its companion institutions have played and continue to play in American life and culture.



The story of historically black colleges and universities is a symbol of what America owes every citizen: Access, Equality, and Opportunity.

While my colleagues and I will cover some of the same territory as we enunciate the contributions of the HBCUs, delineate their continuing needs, and offer future proposals for development that the reauthorization could endorse, I submit that our story of triumph cannot be too often told. Historians at my institution liken the HBCUs survival and growth to the miraculous handiwork of making bricks with straw. Without a doubt these institutions will figure largely in America's success in the global arena.

In Texas there are eight -- six private and two public -- historically black colleges and universities. Prairie View A&M University, a public institution, is a land-grant university and has been designated by the Texas legislature as a special purpose institution, serving a diverse ethnic and socioeconomic population. Over 5,000 students attend the university where they benefit from high quality academic programs in engineering; nursing; accounting; computer engineering technology; pre-medical biology and chemistry; liberal arts; agriculture; teacher education and other fields. Twenty percent of the students are in graduate programs. Through basic and applied research and through public service programs, Prairie View A&M University's boundaries extend to national and international communities. The human, economic, and democratic benefits of these programs are invaluable.

Despite the feats achieved in the face of tremendous odds, public HBCUs like Prairie View A&M University can always hear at least one voice that argues vehemently against continuation of HBCUs suggesting that in tight economic times the state cannot afford to support all of its colleges and universities and insisting that HBCUs be the one

closed or under funded since they are no longer needed. It is at these times that highly visible, unabashed support sustains hope of our students and staff. On the occasion of the 1890 land-grant colleges and universities centennial celebration, the National Advisory Committee on Black Higher Education and Black Colleges and Universities communicated the following affirmation:

**These institutions provide meaningful points of access and often better odds for retention and attainment for blacks than are currently evident in other institutions . . . These colleges not only make distinctive contributions to their respective student groups but they also provide cultural and educational support to the wider black community. In so doing, they enhance the fabric and scope of life for many blacks, while contributing to an overall cultural and educational diversity in American higher education.**

**Among HBCUs many contributions are the following miraculous realities of the dare to dream:**

- 1. HBCUs succeeded with lifting the veil of ignorance from former slaves for whom it was illegal to learn to read, write, or compute.**
- 2. HBCUs produced the lion's share of black nurses, physicians, educators, military officers, scientists, pharmacists, and other leaders.**

**Prairie View A&M University . . .**

**produces more black medical college entrants than any other institution in the State of Texas and is one of the largest producers of black medical school entrants in the country.**

**stands as one of the five top producers of engineers at the bachelors level.**

**counts among its distinguished alumni and ex-students General Calvin Waller, leader of the ground forces in Operation Desert Storm; Lois Moore, Director of the Harris County Medical District of the Harris County Medical District (Houston, Texas); The Honorable Craig Washington, Congressman; Percy Sutton, corporate owner/investor; Dr. Margaret Grigsby, physician.**

3. HBCUs confer over 30 percent of bachelor's degrees to black undergraduates despite HBCUs enrolling only 27 percent of African-American students.
4. HBCUs have become a portrait of multi-ethnic diversity in higher education.  
Prairie View A&M University . . .  
has a student population that is 16% non-black; it has a faculty that is 28% non-black.
5. HBCUs serve people and institutions in communities.  
Prairie View A&M University . . .  
reaches 25 Texas counties, touching 100,000 families through Cooperative Extension Service Programs for youth and senior citizens as well as small business owners including farmers.
6. HBCUs maintain a meaningful presence in research.  
Prairie View A&M University . . .  
engages in the study of radiation effects on electronic material systems and devices through energy research; it has the potential to increase opportunities for scientific and technical research due to Texas' attraction of the Super Conducting Super Collider.
7. HBCUs have broadened their scope of programs and recruitment to attract and retain highly talented minority youth in underrepresented fields.  
Prairie View A&M University . . .  
has established the Benjamin Banneker Honors College which enrolls the academically talented in biology, chemistry, engineering, computer science and selected business fields; it has sent over 90% of the Honors college graduates to graduate and professional schools.

8. HBCUs have provided role models and mentors not readily available in communities inhabited by minority and low income Americans.

**Prairie View A&M University . . .**

**matches students and faculty mentors through its varied student services programs; it features mentoring as a key component of the professional leadership program in the College of Business.**

In her study Blacks in College, Dr. Jacqueline Fleming found that black students experienced greater academic and personal growth at HBCUs. She stated that these institutions " . . . appeared to effectively impart the orientation and skills that allow black students to function well in the larger society: aspiration, confidence, motivation, and the ability to enjoy competition in the integrated world." That study, I might add, was based on 3,500 students at 15 institutions in Texas, Georgia, Mississippi, and Ohio.

In Texas, changing demography means that by the year 2000, Black and Hispanic children below the age of 15 will comprise 50% of the population. Houston, just 45 miles east of Prairie View A&M University, ranks among the 10 most heavily minority populated cities. There is a disturbing contrast, however. Though numbers of low income minority Americans are increasing and expected to continue to do so, the American Council on Education (ACE) reported that black participation in higher education at nearly all levels had declined. During the period 1980-1984, the decline was 4 percent at the undergraduate and 12 percent at the graduate level. Given their phenomenal success with that population which is rapidly becoming the numerical majority in the work force, it appears that historically black colleges and universities can be trusted to make good on the greater investment that may be made in them at the federal level. Hence, a show of continued faith in these institutions can best be actualized and demonstrated in increased federal funding generally and in simplification of implementation procedures.

**Title IV.** This entitlement is the centerpiece of student aid at HBCUs and any changes in it must stimulate college going rates of minorities and graduate and professional school production.

A policy whose preference is more loans, fewer grants, is equally unattractive to students from low and middle income families. Let me note here that this is critical to us at Prairie View A&M University in that we enroll students from both ends of the spectrum: the low income whose families cannot contribute to the cost of their education and the middle income families who earn just enough to qualify for aid but not enough to substantially support their progeny through college and pay bills at home too.

Consider this scenario. A low income student receives a combination of a PELL grant and a Stafford loan. His cohort from a middle income family receives a modest family contribution and a Stafford loan. After college both graduates owe between \$5,000 and \$9,000 in loans. It doesn't very much matter who owes what. Each graduate faces a Catch-22. Both graduates begin a career in teaching, or social work, or law enforcement, all necessary occupations, but all non-high paying careers. Who's ahead now? Clearly, both recent graduates entered from different socioeconomic backgrounds, but their opportunities for assisting siblings to enter college, helping family out of crises, or saving to pay for graduate or professional school are eclipsed by their being debt laden at the very time they must face supporting a professional lifestyle including paying the high cost of housing, transportation, and insurance. Indebtedness early in the graduate's career deters or at least slows their upward climb. It sends a message that college is not such an attractive route to economic advancement. That's a message our nation can ill afford to send to so many who have been outside for so long.

Like other NAFFO institutions, Prairie View A&M University's clientele would best benefit from acceptance of the following recommendations:

Increase the maximum allowable PELL grant from \$2,300 to \$6,500.

Current levels have virtually ignored the increase in college costs over the past decade thus increasing the need for students to borrow.

Simplify the need analysis system as well as the financial aid application process.

There is evidence that poorly educated, low income students and their families have limited experience or patience in conducting business affairs or in executing official documents. Consequently, some pay exorbitant fees to individuals or agencies to help them prepare documents but have no guarantee that forms are either complete or accurate.

In the matter of needs analysis, the definition of "independent" student should be reviewed. Currently, there is a vast disparity between the over age 24 independent student with dependents and the one without dependents. Conditions in families and society are thrusting more childless young people into the independent category than existed when the enabling legislation was created.

Eliminate the imbalance of grants to loans.

To increase the number of persisters in college, grants for eligible students rather than loans could be awarded especially for the freshman year.

Since 1985, the loan volume at Prairie View A&M University has increased 100% from funds emanating from Title IV. Cases of students borrowing more in a year than their parents earn a year are numerous.

Permit institutions greater autonomy in the campus based aid.

The authority to allow movement of 25% instead of the current 10% of funds among campus-based programs would assist institutions in being more responsive to needs of their clientele.

Recognize and respond to the need for scholarships for talented minority students in all fields.

There is a dire need for scholarship support for talented middle income students who comprise a significant pool from which graduate and professional school entrants can be expected to come.

Provide a new authority for direct lending.

Guidelines and standards should not restrict or burden institutions enrolling large numbers of high risk borrowers.

**Title III.** In the legislative language, it is clear that the purpose of Title III is to strengthen the eligible institutions' "... capacity to make a substantial contribution to the higher education resources of the nation." One shudders to think of how the HBCUs would have fared without Title III funding especially during the recent years when state budgets and private coffers for higher education shrank. While we in Texas have experienced remarkable program and facilities improvement since 1980, we at Prairie View A&M University yet suffer from resources too meager to finance substantial curriculum strengthening; administrative and management systems; research programs and facilities; maintenance of our physical plant; attraction of a large cadre of recognized leaders in unrepresented fields; and successful competition for highly competent students who expect and deserve attractive scholarship offers beyond those offered by our Benjamin Banneker Honors College.

In the academic area, Title III funding at Prairie View A&M University has helped to meet critical needs associated with educating both the underprepared and high achievers. The impact has been the establishment of several centers and services:

**The Accelerated Learning Resources Center ...**

Provided seminars, workshops, tutoring and study materials to over 9,000 students at the programs' headquarters in the J.B. Coleman Library and at satellite sites in residence halls.

**Chemistry Laboratory Development ...**

Added state-of-the-art scientific equipment and computers to enhance instruction delivery.

**MATHNET ...**

Provided computer applications laboratory used by over 3,000 students and by faculty in research development and dissemination as well as curriculum development and testing.

**Academic Advising Center ...**

Supported establishment of a freshman and sophomore advisement system that includes advisor training, student orientation, and academic counseling and advising.

### Curriculum and Instruction Improvement Laboratory . . .

Developed curriculum materials, computers, and other electronic instruction equipment used during 2,813 faculty and staff visits from 28 departments; sponsored faculty development workshops featuring consultants and outstanding educators.

### Creative Design

Supported computer-based fashion design program (projected)

In short, Title III funds at Prairie View A&M University have made the following possibilities realities:

1. Broadening of academic support services.
2. Compliance with state mandates for mandatory testing and remediation.
3. Provision of faculty development opportunities.
4. Provision of student employment opportunities.
5. Enhancement of advanced technology, state-of-the art equipment and laboratory rehabilitation and renovation above minimal level.

It is my belief that historically black colleges and universities will continue to be recognized for the contributions made under far less than ideal circumstances. It is my fervent hope that in the reauthorization process neither budget deficits nor crises of confidence be allowed to cause our country to renege on the commitment made during passage of the first major education access policy, the National Defense Act:

"The security of the nation requires the fullest development of the mental resources and technical skills of its young men and women . . . This requires programs that will give assurance that no student of ability will be denied an opportunity for higher education because of financial need."

Mr. Chairman and distinguished colleagues, thank you for this opportunity to testify before you on such a crucial issue as the need to guarantee access and equality in higher education to all citizens regardless of race, color, creed, or national origin.



Mr. WASHINGTON. Thank you, Mr. President.  
Dr. Harris?

**STATEMENT OF WILLIAM HARRIS, PRESIDENT, TEXAS SOUTHERN UNIVERSITY, ACCOMPANIED BY WILBUR GREENFIELD, VICE-PRESIDENT, NATIONAL ASSOCIATION FOR EQUAL OPPORTUNITY IN HIGHER EDUCATION**

Mr. HARRIS. Thank you, Mr. Chairman, Mr. Jefferson. I begin this testimony on behalf of Texas Southern University, and I wish to acknowledge the support of NAFEO, the National Association for Equal Opportunity in Higher Education, which organization was responsible for helping to provide some of the data we need to get into the record.

I also wish to acknowledge the presence here today of Dr. Wilbur Greenfield, who is the vice-president of NAFEO, and is here to represent us. I also wish to say, on behalf of the University, that we are delighted, Mr. Chairman, that you brought your committee hearings to Texas Southern University, one of your alma maters, despite what the General might say.

[Laughter.]

I wish to speak briefly on two matters before you. One is Title III of the Higher Education Act of 1965, as amended, and the second is briefly on Title IV of that same act.

Title III has several sections. One of them is to set aside for minority institutions. We completely support the set-aside for minority institutions, and I wish to make clear here that, in this context, minority institutions represent institutions other than the Historically Black Colleges and Universities. They are generally institutions that contain large numbers of Hispanic students and faculty.

The set-aside also includes the community college section. And what has happened during the past several years is that 76 percent of the funds for the Part A set-asides goes to community colleges.

NAFEO has been concerned about not that that proportion goes to them but, as the lawyers currently construed, any new money would be put in at the same level, which means that there will no new money for the other minority institutions.

We think that Congress needs to take a look at that and to see whether or not some kind of new qualifier needs to be put into place so that minority institutions other—not to take the money from the community colleges; I cannot do that with my colleague sitting next to me—but, certainly, that there be some way that it would not have to necessarily go to that on that level.

We also endorse the recommendation to eliminate the 5-year wait-out that is currently in place for the institutions in historically black college—I am sorry—in the minority set-aside Part A grant.

And we also recommend that there be an additional possibility for cooperation between and among colleges and universities in the Part A and Part B programs. Such interaction will permit the strengths of one group to be magnified by the strengths of the other and thus enhancing overall contribution of the Title III program.

Part B is the group that I wish to speak most about. Part B currently provides approximately 100 grants to strengthen the programs and management of Historically Black Colleges and Universities.

The awards are formula grants based on their relative enrollment of Pell Grant recipients, the number of graduates, and the number of graduates entering graduate and professional schools in the areas in which blacks are underrepresented.

And I take this point to say that Congress needs to keep in mind that that is every area of study in the world. Funded at approximately \$2 million for the next fiscal year, Title III programs make a significant contribution to the programmatic quality of Texas Southern University.

One could make a number of arguments about the value of Historically Black Colleges and Universities to American life. But of course, Mr. Chairman, you are fully aware of the contributions of your two alma maters, namely Prairie View A&M and the Thurgood Marshall School of Law at Texas Southern University.

I am enormously proud of my undergraduate education at Paine College, a member of the United Negro College Fund, which esteemed organization a distinguished member of your house of Congress will soon lead.

But that association as a student, and then the tremendous honor that has been given me to serve as president of two HBCUs, make manifest to me the fact that without question these colleges must be continuously strengthened so as to be able to affect more lives in years to come.

Texas Southern University is the third largest historically black university in the Nation. It is a large, complex urban institution with almost 10,000 students. The university offers degrees at the baccalaureate, the graduate and professional levels and makes a major impact on the overall quality of life of Houston and of Texas and, we think, of the world.

T.S.U. is one of the fastest-growing universities in the State, and the applicant pool for 1991-92 is 30 percent higher than the pool for 1990-91. In addition to being a fast growing institution, Texas Southern University continues to open its doors to numerous disadvantaged youths while at the same time admitting to its classes some of the best and the brightest young people in our State and Nation.

Support from Title III has provided the financial margin that enables us to make and keep the university attractive and productive. I also want to emphasize that Title III, Part B, is one of the most significant acts on the part of United States Congress because, by so doing it, the Congress did reaffirm the fact that it did make sense to give special attention to some of the resources of the Nation so as to enable all of our universities to go forward.

When some of us, several years ago, thought of introducing an idea of a set-aside for Historically Black Colleges and Universities, we were told that it would not make sense and that we could not get race-specific language through Congress.

But Congress was far ahead of us. Congress did, indeed, put in the race-specific language we needed in Part B, and it has been one

of the most significant things to happen in Historically Black Colleges and Universities in recent years.

There are a few things about Part B, though, that we wish to bring to your attention. First, I heartily endorse the increase in the floor of the set-aside. Currently, a college or university, by formula, must receive at least \$350,000. We believe that that number should be increased to \$500,000.

Texas Southern University, one of the largest of the universities, receives far more than that. In order to increase the floor would probably mean an adjustment downward of Texas Southern University's figures.

But for the overall benefit of all of the institutions involved, the small decline of our proportion would be greatly offset by the increase in improvement \$150,000 could make to one of our smaller universities or colleges.

We also ask for a continuation of HBCU Endowment Program, which is generally known as the Frederick D. Patterson Program, named after the founder of the United Negro College Fund, who tirelessly insisted that the Federal Government should help to make possible the development of endowments at historically black colleges. In Dr. Patterson's words, he wanted to beg one time so that we wouldn't have to beg forever.

A controversial part of Title III has been the graduate programs, Section 326. Currently, by statute and by name, several Historically Black Colleges and Universities are involved in the graduate program to support Historically Black Colleges and University graduate and professional schools that "are making a substantial contribution to the legal, medical, dental, veterinary, or other graduate education opportunities for black Americans."

For some reason, when that bill was passed, the Florida A&M University School of Pharmacy, the Xavier University School of Pharmacy, the North Carolina Central University School of Law, the Southern University School of Law, and the Texas Southern University School of Pharmacy, and the Thurgood Marshall School of Law at Texas Southern University were omitted.

We believe that those five schools should be included—those six schools should be included. On the current proposals, we are recommending that the School of Pharmacy at Xavier, the School of Pharmacy at Florida A&M, the School of Law at North Carolina Central, the School of Law at Southern, and either or both the School of Law and the School of Pharmacy at Texas Southern University would share.

Now, I have some problem with that personally in that just because we are good enough to have two schools does not mean that we ought to be penalized because we are doing so well. But we have agreed to language that currently says and/or pharmacy and law and if, in your wisdom, you want to change that too, we would not argue.

[Laughter.]

As we go forth, we would be pleased to have your wisdom on this. Mr. Chairman, I have saved my last few minutes to talk briefly about the Part 4—I am sorry, Title IV.

The HBCUs enroll large numbers of students who come from families without large incomes or long term wealth. Accordingly, I

heartily endorse the recommendations put forth before the Senate Committee on Labor and Human Resources in testimony by Dr. Robert Atwell on behalf of the American Council on Education and 11 other higher education organizations, including NAFEO, to support heightened and expanded funding for Title IV student aid programs.

Dr. Atwell specifically called for support of the bill introduced by Senator Kennedy which would provide additional support for students under the Pell Grant Program. I specifically wish to urge this committee to end the increasing transfer of student support from grants to loans.

At Texas Southern University, where 70 percent of the students receive some form of financial aid, students borrowed \$21,030,651 for the current fiscal year to pay their educational expenses. That comes out to an average of \$2,213 per student borrowed. They are drowning in a sea of loan debt.

It is, of course, true that students who receive an education should bear some of the costs of going to college. But we should not overlook two important factors. One is that money spent on educating young people is an investment in the Nation's future, not a useless expenditure.

Another factor of equal importance and truth is that if these young people graduate from our colleges and universities heavily burdened with debt, they will have little money with which to buy homes, automobiles and other goods and services that fuel our national economy.

I urge you not to mortgage further our Nation's future by shifting our current burden onto the backs of our children through heavy loan debt.

I thank you for hearing me, and I am pleased that you are holding these hearings.

[The prepared statement of William Harris follows:]

**STATEMENT**

**To the**

**SUBCOMMITTEE ON POSTSECONDARY EDUCATION  
COMMITTEE ON EDUCATION AND LABOR  
UNITED STATES HOUSE OF REPRESENTATIVES**

**July 22, 1991**

**by**

**William H. Harris, President  
Texas Southern University**

Mr. Chairman and Members of the Subcommittee:

I am pleased to appear before the Subcommittee this morning to speak on behalf of Texas Southern University and to endorse the recommendations of a dozen higher education associations on the reauthorization of Title III of the Higher Education Act and to present any support of heightened student aid through Title IV. I gratefully acknowledge the help and support and assistance of the National Association for Equal Opportunity in Higher Education (NAFEO) which helped to produce much of the national data cited herein.

Title III Institutional Aid (formerly Developing Institutions) is the only federal program which provides direct assistance for academic and financial development to institutions serving large proportions of disadvantaged students. As such, it provides a margin for real growth and development beyond mere survival for hundreds of community colleges, four-year public and private institutions, Historically Black Colleges and Universities (HBCUs), and other institutions serving predominantly minority students.

The higher education community strongly supports reauthorizing Title III at increased funding levels, with a number of technical changes to better enable it to serve its constituency. The changes we propose for

each of the three parts of the Title are outlined below:

### **III-A: Strengthening Institutions**

Part A currently provides project grant awards to some 300 institutions with relatively low educational and general expenditures and substantial enrollments of students receiving federal need-based aid. It is used for faculty and academic program development, management, joint use of libraries and laboratories, acquisition of equipment, and student services.

Twenty-five percent of Part A appropriations are set aside for institutions "with the highest percentages" of minority students. Under this language, institutions with the most meritorious project proposals and high minority enrollments (over 80 percent, in some instances) must be skipped over to fund applications of lesser merit from institutions with higher minority enrollments. I join in recommending that this setaside be modified to institutions "with high percentages" of minority students, to allow more minority institutions to compete.

Another Part A setaside, for community colleges, has proved controversial. When the program was first established, 76 percent of funds were reserved for baccalaureate degree-granting institutions. In 1980 this was changed to a 24 percent floor for community colleges, but their participation expanded rapidly and by the mid-1980s they received

78 percent of Part A funding. In 1986 their setaside was changed to a fixed amount of \$51.4 million, representing their current level of funding. When appropriations for the program were reduced in FY 88, this protected the community colleges, but it substantially impaired funding for four-year institutions: they received no new grants and had their continuing grants reduced by 40 percent. Despite increased funding in subsequent years, participation by four-year institutions has never fully recovered, and community colleges still receive about 75 percent of Part A funds.

It is important to assure that four-year institutions receive a fair share of Title III-A support. While community colleges have a high proportion of disadvantaged and minority students, larger numbers of these students continue to be enrolled in public and private four-year institutions. (In 1988, the last year for which data are available, four-year colleges enrolled 2.5 million Title IV recipients and 1.3 million minority students, compared to 1 million Title IV recipients and 1.1 million minority students in community colleges.) Another principal objective of Part A, to help "institutions...face problems that threaten their ability to survive," speaks directly to the needs of many small, four-year private institutions, heavily dependent on tuition revenue and without recourse to significant public or private funding .



To address this issue, the recommendations we submitted to the Subcommittee earlier this spring included a proposal to eliminate the community college setaside, but the American Association of Community and Junior Colleges later withdrew its support for this recommendation. Therefore we do not have a consensus position on the issue at this time.

I endorse the recommendation to eliminate the five-year wait-out period for institutions which successfully complete a Part A grant. The current program properly emphasizes developmental as opposed to operational grants: the purpose is to give an institution time to try a new initiative and refine it before taking over its full support. In this context, however, the five-year wait-out period makes little sense: If an institution successfully completes a III-A program and has another initiative it wants to undertake, it ought to be permitted to apply for assistance for those activities.

To improve cooperation and administration of both Part A and Part B programs by participating institutions, we recommend that they be permitted to participate in multiple cooperative agreements, and that grants for parts A and B be allowed to be awarded directly to formal consortia. Current regulations limit institutions to participation in only one cooperative agreement, and consortia are not eligible grantees. Direct consortial grants are permitted and have proved successful in the

Fund for the Improvement of Postsecondary Education. Under such an arrangement, the consortial grantee would be a legal entity with nonprofit tax-exempt status, and application by informal consortia of convenience would be precluded. This approach places administration in a neutral body, equally controlled and supported by the participating institutions. This recommendation intends to foster cooperative relationships between Part A and Part B institutions, as well as with other institutions that might wish to establish consortial relations with them to maximize their degree offerings and facilities.

### **Part B: Strengthening Historically Black Colleges and Universities**

Part B currently provides approximately 100 grants to strengthen the programs and management of Historically Black Colleges and Universities. The awards are formula grants based on their relative enrollment of Pell Grant recipients, number of graduates, and number of graduates entering graduate and professional school in the areas in which Blacks are underrepresented. Funded at approximately \$2,000,000 for the next fiscal year, Title III programs make a significant contribution to the programmatic quality of Texas Southern University.

One could make a great number of arguments about the value of historically black colleges and universities to American life. And, of

course, Mr. Chairman you are fully aware of the contributions your two alma maters, namely Prairie View A. & M. University and the Thurgood Marshall School of Law at Texas Southern University, have made. I am enormously proud of my undergraduate education at Paine College, a member of UNCF which esteemed organization a distinguished member of your house of the Congress will soon lead. But that association as a student, and then the tremendous honor that has been given me to serve as President of two HBCUs make manifest to me the fact that with out question these colleges must be continuously strengthened to as to be able to affect more lives in years to come.

Texas Southern University, the third largest historically black university in the nation, is a large complex urban institution with almost 10,000 students. The university offers degrees at the baccalaureate, graduate and professional levels and makes a major impact on the overall quality of life of Houston and of Texas. TSU is one of the fastest growing universities in the state and the applicant pool for 1991-91 is thirty percent higher than the pool for 1990-91. In addition to being a fast growing institution, Texas Southern University continues to open its doors to numerous disadvantaged youths while at the same time admitting to its classes some of the best and brightest young people in our state and nation. Support from Title III has provided the financial

margin that enables us to make and keep the university attractive and productive.

The case for increased support for Historically Black Colleges and Universities is clear and compelling. As providers of equal educational opportunity for over 100 years, they are responsible for the emancipation of Blacks from illiteracy between 1865 and 1935 and for the education of the majority of Black professionals. They enroll approximately 20 percent of the Black students in higher education, yet they graduate almost 40 percent of the Blacks who earn baccalaureate degrees annually. Many of our most distinguished Black Americans in medicine, law, business, military and public service are graduates of HBCUs.

Increased investment in these vital resources is an investment in our nation, for their value is indisputable. The fact that you have taken appropriate initiatives, including establishment of Title III-B, is a source of encouragement to us all. Moreover, you have convened your meeting on this historic campus and you have graciously extended to me this invitation to present views on behalf of Black colleges and universities as well as institutions representing the higher education spectrum. By so doing, you clearly show your clear perception of the enormous possibilities for progress inherent in our collective efforts to position HBCUs and other developing institutions for the educational, social, and

moral challenges facing us in the decades ahead.

The Congress clearly wishes to know what has happened with money it has appropriated in the past. And with Title III-B this is a wonderful story to tell. Appropriations for Title III-B totalled \$351.2 million for the period FY 87-91. Approximately 100 HBCUs received an average of \$714,000 per year. The number of institutions receiving the minimum grant of \$350,000 declined from 41 in 1987 with an appropriation of \$46.7 million to 14 in 1991 with an appropriation of \$87.8 million. The graduate and professional schools under Section 326 received \$48.6 million from 1987 to 1991.

Between 1987 and 1990, in view of increase appropriations for Title III-B, enrollment in HBCUs rose from 217,921 to 246,000 students--an increase of over 13 percent. The number of Pell Grant recipients in HBCUs increased by 5.8 percent, rising from 106,501 in 1987 to 11,178 in 1990. During this same period, HBCUs have been very productive also in graduating students at the graduate level. 1987 there were 114 doctorates conferred to Blacks from total of 105 HBCUs, out of 1,060 doctorates conferred to Blacks from all U.S. institutions combined. HBCUs, therefore, are graduating, on a per institution basis, three and a half times more PhDs than all U.S. institutions. The ratio is about six times for masters degrees. Some 12 HBCUs grant doctorates and 48 grant

masters degrees.

The recommendations which follow are offered to increase the awards of the neediest HBCUs which have not received more than the minimum grant over the past five years, to allow for greater flexibility in the uses of the funds, and to provide funding for five additional graduate and professional schools and for those which are emerging.

We recommend increasing the minimum Part B grant from \$350,000 to \$500,000. This would help some fourteen smaller institutions, which do not necessarily receive increases as appropriations increase because the allotment is number-driven, based largely on the proportionate number of Pell recipients.

We also recommend a change in the authorizing language to permit the use of Part B funds for activities which are not specifically authorized, but which contribute to the purposes of the program. The current language of the statute is too limiting; institutions need the flexibility to use funds for activities which promote the goals of their program even though they may not be specifically authorized. As the President of one of the largest Part B institutions I am proud to support raising the floor to help the smaller institutions.

Graduate Support. Part B also provides a separately-authorized program (Section 326) for support of Historically Black Professional or

Graduate Schools "making a substantial contribution to the legal, medical, dental, veterinary, or other graduate education opportunities for Black Americans." Five schools are named in the law as eligible for this support, but since Section 326 was originally drafted, five more institutions have developed graduate programs to deal with the undersupply of minorities in critical areas of need. They include: Xavier University School of Pharmacy, Southern University School of Law, Florida A & M University School of Pharmaceutical Sciences, North Carolina Central University School of Law and the Texas Southern University School of Law and School of Pharmacy.

We recommend that these schools be added to the list of eligibles, and that the Secretary be authorized to designate additional institutions for eligibility as they develop appropriate programs, rather than wait for periodic amendment of the statute. Both recommendations will require an increase in the authorization for Section 326.

The case for additional support for HBCU graduate programs is particularly convincing in light of the fact, reported by ACE, that the production of Black male doctorates dropped 47 percent from 1978 to 1989. In contrast, there has been a 63 percent increase in the number of PhDs received by non-U.S. citizens. The National Science Foundation reports that between 1978 and 1988 PhD recipients among non-U.S.

citizens in the natural sciences increased from 14 to 24 percent. In engineering, the percentage of doctorates awarded to foreign students rose from 30 percent in 1978 to 45 percent in 1985. Furthermore, Black Americans are the only minority group showing a decline in the number of doctorates awarded between 1979 and 1989.

Clearly, it is our nation's interest to invest in the production of Black doctorates to help replenish our aging professoriat and to help regain our competitive edge. HBCUs have an unparalleled record in educating Blacks at the undergraduate and graduate levels; therefore they are logical institutions to receive federal help to increase the production of Black PhDs.

A precedent for investing in HBCUs can be seen in NSF's establishment of Centers of Excellence at majority institutions in the 1960s to increase their capacity to produce PhDs in the sciences. Surely, the underrepresentation of Blacks with doctorates in areas critical to the national interest warrants a replication of this model which would increase the capacities of HBCUs to offer doctorates as well as to perform needed research.

### **Part C: Endowment Challenge Grants**

This authority currently provides about 20 matching grants annually to institutions eligible for either Parts A or B to establish or increase



their endowments. During the grant period of up to ten years an institution may not withdraw or expend any of the endowment fund corpus; after termination of the grant the corpus may be used for any educational purpose. Institutions receiving grants are not eligible to reapply for another ten years.

Challenge Grants are critical to assuring the fiscal stability of small, under-funded institutions, particularly Historically Black Colleges and Universities. Hampton, like her sister institutions but unlike her majority counterparts, operates within a framework of a particular vulnerability, a major antidote to which is sustained support from the public and private sectors which, in all instances, can mean for these institutions the difference between survival and extinction.

The establishment of the Endowment Challenge Grant Program in 1983 reflects the sensitivity of Congress to the fiscal vulnerability of Black colleges and universities and other small, underfunded institutions. This program fulfilled the dream of Dr. Fred Patterson, founder of the United Negro College Fund (UNCF), and others who called for a major federal role in ensuring the financial stability and self-sufficiency of HBCUs. During the early years of the Part C program, HBCUs received about 50 percent of the funds. However, in 1986 the application of the setaside for minority institutions was removed from Part C, and since then HBCUs have

received only 13 percent of the funds. Specifically: in 1987, three of six awards went to HBCUs; in 1988, eight of twenty-four; in 1989, five of twenty; and in 1990, two of twenty. From 1984-90, 66 HBCUs received 105 grants/grant reservations totaling \$32.9 million, while 198 institutions ( including the 66 HBCUs) received 283 grants/grant reservations totaling \$114.5 million.

Therefore, legislative changes are needed to restore the original intent of Congress that the endowment program ensure the financial stability of HBCUs.. We recommend that \$20 million of Part C appropriations be reserved for HBCUs. This is the identical reservation that House and Senate conferees on the Educational Excellence Act agreed to last year: although this legislation was not enacted, it is clear that Congress wants the federal government to play a significant role in preserving and advancing HBCUs as national resources. The general Part C authorization should be increased from \$20 million to \$75 million.

We make two other recommendations to improve the effectiveness of Part C: the wait-out period should be reduced from ten to five years to provide additional opportunities for institutions to seek matching grants, and grants should be capped relative to the size of the appropriation to prevent the entire appropriation from being consumed by grants to only a few institutions. We suggest that grants be limited to \$500,000 when

the appropriation is under \$11 million, and to \$1 million when the appropriation is between \$11 and \$20 million.

Federal endowment support is appreciated in its own right. Just as important, however, is the enormous extent to which it helps HBCUs leverage private resources. Indeed, Texas Southern University can document the fact that Endowment Grant generated twice as much additional money from private sources.

In addition to the foregoing recommendations pertaining to the Endowment Challenge Grant Program, please consider: (a) including some flexibility in the legislation which would allow any HBCU with the capability to generate endowment support to participate in the program; (b) removing language which penalizes those HBCUs which have been more successful in building their endowments in the private sector; and (c) perhaps including a classification of HBCUs according to their fundraising potential and level of endowment.

HBCUs enroll large numbers of students who come from families with out large incomes or long term wealth. Accordingly, I heartily endorse the recommendations put forth before the Senate Committee on Labor and Human Resources in testimony by Dr. Robert Attwell on behalf of the American Council on Education and eleven other higher education organizations to support heightened and expanded funding of Title IV

student financial aid programs. Dr. Atwell specifically called for support of the bill introduced by Senator Kennedy which would provide additional support for students under the Pell Grant Program. I specifically wish to urge this committee to end the increasing transfer of student support from grants to loans. At TSU, where 70 percent of the students receive some form of financial aid, students borrowed \$21,030,651 for the current fiscal year to pay their educational expenses. That comes out to be an average of \$2,213 per student. They are drowning in a sea of loan debt.

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I thank you for hearing me today.

Mr. WASHINGTON. Thank you, Mr. President. And I will now yield to my colleague from the great State of Louisiana.

Mr. JEFFERSON. Thank you, Mr. Chairman. To the panelists, all who have come this morning, it is traditional at these field hearings that one heaps praise upon the local member so as to endear him further to his constituents and, of course, so as to win his favor when we are back in Washington looking for help.

And so I, of course, will not depart from that tradition, but not for those reasons. I want to say something good about Craig Washington because he deserves it. I remember meeting him for the first time in Washington, and some folks told me that people back in Texas were so in love with this man until they were fighting over him, literally.

I can tell them I witnessed that, in part, this morning between the presidents of Prairie View and Texas Southern Universities as they fought to claim you as their own.

[Laughter.]

But Craig has only been there a short time, a year ahead of me, but he has impressed all who have met him as an eloquent and committed spokesman for the causes that he pursues. And believe me, he pursues them with great passion, with great vigor, with great intelligence.

And his leadership will be, I think, shown to the whole Nation as we see his career unfold in Washington. And as you have seen him in Texas in the State legislature, how he has done his work there. So we may expect similar things from him—if not greater things—from him in Washington.

I am telling you what you already know, however, I am sure. I want to say, without taking up much time, how important it is that we are here, and how happy I am to be here even though my district is not very far from here, just across the way there in New Orleans.

These are important hearings, and the reason we take the time to go out into the field is for a reason which I state at another hearing earlier. It is one thing to sit and to try and determine what is best for the Nation, and what should be done in higher education, and how we should adjust this law or make changes or whatever, or re-enact it the way it is.

To make decisions about it in a vacuum, simply depending upon our skills of reasoning is one way to get after this—what ought to happen, what should work. But what is better is to test the experience of those who have been the consumers of the laws that have been passed by the Congress, and those who have sometimes been the victims of the laws that have been passed by the Congress, and to try and straighten out the problems or to go back and say these things are working properly and let's keep them in place.

And as one who said it more eloquently than I can ever hope to say it, Oliver Wendell Holmes said, "The life of the law is not logic, it's experience."

And I believe he is right, and that is why we are here more than anything else. To gather what we can in the way of information from your experiences with this act so that we may go back and have a better result for our country.

The remarks you have made—that you two gentlemen have made so far about historically black colleges—I think add well to the record that we are trying to make in Washington on this same subject. And I think every time I hear someone talk, there is a new angle, there is a new bit of information that helps to spark a point.

And as Craig and I were just talking, we are going to put in an act which will be separate that you probably know a little something about, Mr. staff director, that will deal with historically black colleges and deal with the issue of opportunity and access and, hopefully, will be folded into the reauthorizing act as we go along.

But we will use it in New Orleans next week to focus on this issue. So I want to say to you that I am very pleased to be a part of these hearings, and very pleased to accept the invitation of our Chairman, Mr. Washington, and very pleased to have a chance to work on these most important issues at this time, in the critical time in the history of our country where education, competitiveness and opportunity for everyone to a higher education is most important.

And it is something that we all need to focus on and do better with this great problem and this great challenge that faces us. So thank you, Mr. Chairman, for permitting me these brief remarks. And it is my pleasure to be here, and I look forward to the rest of the hearing.

Mr. WASHINGTON. Thank you, Congressman Jefferson, and I would like to thank both of you very much for your testimony. Dr. Harris, once again, thank you for the help that your staff has provided, and the administration faculty as well as the employees who work on the campus, the policemen, everyone involved has been so gracious in helping us and helping my staff and the committee staff in order to make these hearings possible.

And you are an excellent host, and we bid you adieu, farewell and good luck in Austin.

Mr. HARRIS. Thank you, sir.

Mr. BECTON. Thank you, sir.

Mr. WASHINGTON. Dr. Green?

#### STATEMENT OF CHARLES GREEN, CHANCELLOR, HOUSTON COMMUNITY COLLEGE

Mr. GREEN. Thank you, Congressman Washington, Congressman Jefferson. And before my distinguished colleagues leave the building, I want to endorse everything they have said about Historically Black Colleges and Universities, being a product of one myself.

And I take away absolutely nothing from the comments they say. I can only add to them in the area of financial assistance for needy. And for those institutions that have done it for over 100 years, we who are new can only champion their cause and say that, as a product of their institutions, we are here to support their efforts not only in continuing, but in providing them the assistance of the students that we as the new institution now seek to serve in the first 2 years of their education.

Unfortunately, I cannot—I do not believe, and I have to check this by asking Congressman Washington—claim Congressman

Washington as an alum, unless he has taken one of my continuing education courses, because we did not exist until 1971 and he, like I, probably had completed our formal education at that time.

Mr. WASHINGTON. You are telling my age.

[Laughter.]

Mr. GREEN. We now, as a matter of record, serve 67,000-plus local students. Contained within are many of the minorities that ultimately attend both the historically black institutions and the other educational institutions throughout the Nation.

But that is not the purpose of my particular testimony today. My testimony today is much more specific than anything that has been talked about thus far, and that is to talk about the complexity and the difficulty of providing educational service to health science participants in the education process who serve us in the hospitals that so desperately need their help.

Earlier this year, the Houston Community College System purchased land in the Texas Medical Center area adjacent to the facility that it presently occupies for the purpose of constructing a state-of-the-art health science center to meet the needs of thousands of Houstonians who apply yearly to the college health care programs but cannot be served because of space restrictions.

The land has been purchased and the plans have been drawn, but the Houston Community College does not have the financial resources to build that facility. Our need is for a one-time allocation that would fund the entire project.

As the largest health science trainer in the Gulf Coast region, Houston Community College serves more than 2,400 students a year in two nursing programs; associate degree nursing for a registered nurse, and a licensed vocational nursing program, plus 18 allied health programs and disciplines such as physical therapy, radiography and nuclear medicine technology.

Presently, the college shares facilities with the High School for Health Professions. The college occupies 25 percent of the second floor, and the entire third floor. Library facilities are shared. That means that is less than half a high school for the training of some of Houston's key health professionals.

Because of space limitation, the Houston Community College Health Science Facility is only able to accommodate 20 percent of the students who apply each year, even though classes are offered days, evenings and weekends. This leaves literally thousands of aspiring students out of the educational route that has the credentials to train them for meaningful careers in an area that is presently experiencing crippling shortages, both locally and nationally.

The four most recent additions to the roster of health science programs—nurse aide, medical records technology, pharmacy assistant technology and diagnostic medical sonography—are without laboratories due to space restrictions.

Two health science programs—medical laboratory technology and mental health associate—have been forced to relocate to an alternate Houston Community College campus, again because of space restrictions. These programs in an area that is not accessible by public transportation, although many of the health science students commute in this manner daily.



The proposed new health science facility would put all health science education under one roof in a center that will accommodate more than 4,000 students, increasing the number of students who can be served by close to 3,000. Equipment and labs will incorporate the latest in health care technology in a functional, pleasant environment that will enhance learning for a body of students, most of whom hold jobs while they pursue an education.

The Houston Community College System Health Science Center is a Texas Medical Center institution, a prestigious designation for any institution of higher education. Most of the clinical practicums lodged for Houston Community College students are in the Texas Medical Center Hospitals.

The Texas Medical Center is two and one half times larger than any medical center in the world. It has 41 member institutions and serves over 107,000 patients daily. About 2,350,000 patient visits are scheduled each year. The Texas Medical Center is also the largest single employer in Houston with approximately 50,000 full and part-time employees.

People from all over the world flock to the Texas Medical Center because of its international reputation for excellence and advanced technology. At the end of 1990, there were 1,800 job vacancies in the Technical Medical Center. It is projected that an additional 2,500 jobs will be created in the next 3 to 5 years.

Citywide, there is an 18 percent shortage of health professionals in hospitals and clinics. This is one of the highest rates of vacancy in the country. The success of our college health science students reflects the excellence of the medical community that it serves.

The passing rate of the Houston Community College health science students taking their board certification exams is 87.8 percent. In the critical disciplines of associate degree nursing and licensed vocational nursing, the rate increases to 92 percent.

In addition to teaching credentials, all health science instructors have been working professionals in their disciplines, enabling them to take instruction beyond the textbook and laboratory and infuse the vital element of the real world work into the training process.

The college associate degree nursing program has established a working partnership with several Texas Medical Center Hospitals to upgrade their licensed vocational nurses and public health care employees to registered nurses.

Some of the classroom and laboratory spaces, and all of the clinical practicum slots are provided by the partnership hospitals. Relationships of this nature are built on respect. We, the Houston Community College, are considered a quality teaching institution, and these prestigious hospitals would not entrust this task to us were our training not thus.

The Medical Center Hospitals heartily endorse the need for the college to move ahead with the new facility in order to cope with the crises of the shortage of health care providers. The institutions expressing their support include St. Luke's Episcopal Hospital, Methodist Hospital, Hermann Hospital, M. D. Anderson Cancer Center, the Harris County Hospital District, and many more.

We have enclosed a letter to Congressman William Ford by Dr. William E. Renardi, president and chief executive officer of the Texas Medical Center, begging your endorsement of our request.



In April of this year, the board of trustees of the Houston Community College System unanimously approved a resolution to name the proposed health science facility in memory of the late Congressman George Mickey Leland. The college believes that it is a fitting tribute to Congressman Leland's undying commitment to the preservation of life through education and health care.

This commitment is also at the heart of our efforts to build a new health science center. There is no single strategy that can contribute more to the economic well-being of our city than matching job training with available jobs.

The equation is simple. If we train unemployed and underemployed individuals in the health care professions where there are shortages projected to last well into the 21st century, we are creating a base of productive citizens with secure futures.

We are meeting the serious shortages that exist in our medical community, and we are ensuring quality health care, not only for Houstonians, but for people all over the world. The only missing link in this equation is the new health science center. We are asking you to provide us with that link.

I would like to thank both you, Congressman Washington, and you, Congressman Jefferson, for the opportunity to testify and to indicate that our support here this morning is in the form, not only of myself but the chairman of my board, Mr. Bruce Austin is present, and my vice-chancellor of academic affairs, Dr. Harding, and others to include students that you will hear testify later on.

And subject to your questions at the appropriate time, this completes my presentation.

[The prepared statement of Charles Green follows:]

HONORABLE WILLIAM FORD  
CHAIRMAN, COMMITTEE ON EDUCATION AND LABOR  
U.S. HOUSE OF REPRESENTATIVES  
2451 RAYBURN  
HOUSE OFFICE BUILDING  
WASHINGTON, D.C. 20515

**SPEECH/EXECUTIVE SUMMARY, DR. GREEN**

Earlier this year, the Houston Community College System purchased land in the Texas Medical Center, adjacent to the facility it presently occupies, for the purpose of constructing a state-of-the-art Health Science Center to meet the needs of the thousands of Houstonians who apply yearly to the college's health care programs but cannot be served because of space restrictions.

The land has been purchased and the plans have been drawn, but the Houston Community College System does not have the financial resources to build the facility. Our need is for a one-time allocation that will fund the entire project.

As the largest health science trainer in the Gulf Coast region, Houston Community College serves more than 2,400 students a year in two nursing programs, Associate Degree Nursing for RN's and a Licensed Vocational Nursing program, plus 18 allied health programs in disciplines such as physical therapy, radiography, and nuclear medicine technology.

Presently, the college shares a facility with the High School for Health Professions. The college occupies approximately 25 percent of the second floor and the entire third floor. Library facilities are shared. That's less than half a high school for the training of some of Houston's key health practitioners.

Because of space limitations, the HCCS Health Science facility is only able to accommodate 20 percent of the students who apply each year, even though classes are offered days, evenings and weekends. This leaves literally thousands of aspiring students out

of an educational loop that has the credentials to train them for meaningful careers in an area that is presently experiencing crippling shortages.

The four most recent additions to the roster of health science programs - Nurse Aid, Medical Records Technology, Pharmacy Assistant Technology and Diagnostic Medical Sonography - are without laboratories due to space restrictions. Two Health Science programs, Medical Laboratory Technology and Mental Health Associate, have been forced to relocate to an alternate HCCS campus; again because of space restrictions. These programs are in an area that is not accessible by public transportation, although many Health Science students commute in this manner.

The proposed new Health Science facility would put all Health Science education under one roof in a center that will accommodate more than 4,000 students, increasing the number of students who can be served by close to 3,000. Equipment and labs will incorporate the latest in health care technology in a functional, pleasant environment that will enhance learning for a body of students most of whom hold jobs while they pursue an education.

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single employer in Houston with approximately 50,000 full and part-time employees. People from all over the world flock to the Texas Medical Center because of its international reputation for excellence and advanced technology.

At the end of 1990, there were 1800 job vacancies in the Texas Medical Center. It is projected that an additional 2500 jobs will be created in the next three to five years. City-wide there is an 18 percent shortage of health professionals in hospitals and clinics. This is one of the highest rates of vacancy in the country.

The success of the college's Health Science students reflects the excellence of the medical community that it serves. The passing rate for HCCS Health Science students taking their board certification exams is 87.8 percent. In the critical disciplines of Associate Degree and Licensed Vocational Nursing, the rate increases to 92 percent.

In addition to teaching credentials, all Health Science instructors have been working professionals in their disciplines, enabling them to take instruction beyond the textbook and laboratory and infuse the vital element of the "real world of work" into the training process.

The college's Associate Degree Nursing program has established working partnerships with several Texas Medical Center hospitals to upgrade their LVN's and other health care employees to RN's. Some of the classroom and laboratory space and all of the clinical practicum slots are provided by the partnership hospital.

Relationships of this nature are built on respect. Were the college not a quality teaching institution, these prestigious hospitals would not entrust it with the task of the training their

health professionals.

The Medical Center hospitals heartily endorse the need for the college to move ahead with the new facility in order to cope with the crisis of the shortage of health care providers. The institutions expressing their support include St. Lukes Episcopal Hospital, Methodist Hospital, Hermann Hospital, M.D. Anderson Cancer Center, the Harris County Hospital District and many more. Here is a letter written to Congressman William Ford by Dr. Richard E. Wainerdi, president and chief executive officer of the Texas Medical Center .

In April of this year, the Board of Trustees of the Houston Community College System unanimously approved a resolution to name the proposed health science facility in memory of the late Congressman George "Mickey" Leland. The college believes that it is a fitting tribute to Congressman Leland's undying commitment to the preservation of life through education and health care. This commitment is also at the heart of our efforts to build a new Health Science Center.

There is no single strategy that can contribute more to the economic well being of our city than matching job training with available jobs. The equation is simple. If we train unemployed and underemployed individuals in the health care professions where there are shortages projected to last well into the 21st century, we are creating a base of productive citizens with secure futures; we are meeting the serious shortages that exist in our medical community; and we are insuring quality health care not only for Houstonians, but for people all over the world. The only missing link in the equation is the new Health Science Center. We are asking you to provide us that missing link.

**Texas Medical Center**

Richard E. Wainerdi, Ph.D.  
President and  
Chief Executive Officer

406 Jesse H. Jones  
Library Building

July 17, 1991

Houston, Texas  
77030-2894

Congressman William Ford  
Chairman  
Committee on Education and Labor  
United States House of Representatives  
2451 Rayburn House Office Building  
Washington, DC 20515

Dear Congressman Ford:

Please accept this letter in full support of the proposal for the Houston Community College System to construct a new facility for Health Science education.

Presently, there are severe personnel shortages in all health science professions that will continue to grow in the coming years. The Houston Community College System is attempting to alleviate many of these shortages by offering educational programs in 20 allied health and nursing disciplines.

Last year, the College System's Health Science division experienced a 15 percent enrollment growth, bringing it to full capacity. The division shares a facility with the High School for Health Professions and the limited space prohibits any further growth in the college's programs which are so vital to the medical community.

I would appreciate any consideration you give to this proposal.

Sincerely,



Richard E. Wainerdi

REW/ddc

Mr. WASHINGTON. Thank you, Dr. Green. We are very pleased to have the chairman of the board here also. Dr. Barrera?

**STATEMENT OF ADOLFO R. (SONNY) BARRERA, ASSISTANT VICE-PRESIDENT FOR STUDENT AFFAIRS AND DIRECTOR, MINORITY STUDENT AFFAIRS, SOUTHWEST TEXAS STATE UNIVERSITY**

Mr. BARRERA. Mr. Chairman, Mr. Jefferson, on behalf of Southwest Texas State University [SWT], and our president, Dr. Jerome Supple, we extend our gratitude to the Subcommittee on Postsecondary Education, Representative Craig Washington and Texas Southern University for your invitation to testify on the reauthorization of the Higher Education Act.

On November 8, 1965, President Lyndon B. Johnson returned to the campus of his alma mater, Southwest Texas State University, to sign into law the Higher Education Act. President Lyndon B. Johnson said, "Progress in education won't solve all of our problems. But without progress in education, we can't solve any of our problems."

It is with this spirit in mind that SWT goes on record in full support of the reauthorization of the Higher Education Act. Specifically, we focus our remarks on Title III, Strengthening Institutions Program.

Before getting to the meat of my remarks, allow me to provide a brief historical perspective on our institution. SWT is a 4-year university with an enrollment of more than 20,000 students. The university is located in San Marcos, between Austin and San Antonio, in the heart of the Interstate (I-35) Corridor.

Early in the last decade, unparalleled statewide growth and prosperity were followed by a virtual collapse of the oil, agriculture, and manufacturing fiscal base. At the same time, growth of minority populations brought a higher influx of underprepared and linguistically diverse students who required alternative instructional delivery and support systems.

The influx of ethnic minorities has permanently changed the demographics of the region and the population the university serves. One of the most difficult challenges facing the university is how to continue to serve the traditional college population while meeting the unique needs of a multicultural and socioeconomically diverse nontraditional population.

In order to understand the magnitude of this challenge, it is necessary to describe the fabric of the diverse community which the university serves. Today, 50 percent of the public school children on the I-35 corridor are Hispanic and black, while the population of white students comprises the other 50 percent.

The new ethnic change of the region and Texas is reflected in the student population through the local school districts. At the university, we anticipate that within the next 10 years, the combined presence of blacks and Hispanics will constitute a majority proportion of the university's total enrollment.

While it is heartening to anticipate the increase in diverse populations who choose to take advantage of the higher educational opportunities at SWT, there will remain a significant segment of the



total population who will never reach for the opportunities the university offers.

Poverty, lack of career and academic counseling, and first generation college bound status restricts a significant segment of minority students from attending college. Those who do enter SWT need specialized student support services and role models to help them succeed.

Without these services, it is likely that they will encounter a revolving door, leaving college because of lack of skills and resources needed to achieve. To be successful with these students, universities like Southwest must provide comprehensive, innovative programs designed to create an educational environment that supports state-of-the-art student services.

With its current fiscal restraints, Southwest Texas State University cannot prepare for this challenge and conversion without external resources. Since State appropriations have dropped from 90 percent to 60 percent between 1984 and 1990, SWT is facing a crisis of greater demand with fewer resources.

To meet the challenge, a viable source for external funding is the Strengthening Institutions Program, Title III of the Higher Education Act. While the SWT administration supports fully the reauthorization of the Higher Education Act, SWT as a designated eligible institution under the Strengthening Institutions Program needs to pursue Title III funding.

These potential funds are necessary to assist the institution to improve its academic quality, institutional management, fiscal stability, and strengthen our capacity to make a substantial contribution to the higher education resources of the Nation. Through these development grants, SWT hopes to provide quality postsecondary educational opportunities for all citizens.

As the authors of "One-Third of a Nation" have urged, "America's institutions of higher learning must renew and strengthen their efforts to increase minority recruitment, retention and graduation."

With this guidance in mind, the reauthorization of the Higher Education Act is imperative. SWT advances the following four recommendations pertinent to Title III funding for consideration:

1. Eliminate granting waivers for eligibility to compete for Title III funds. Any and all developing institutions with a vested interest in submitting competitive proposals for funding should be authorized to compete.
2. Set-aside funding for community colleges limits funds available for 4-year colleges. SWT, as a 4-year institution, favors funding proposals on merit rather than on classification.
3. Expand the minority institution preference to include institutions such as SWT which demonstrate significant potential to increase its ethnic minority proportion of total enrollment, given the availability of ethnic minority students in the college-bound high school cohort.
4. Enhance the fund-raising activities of Title III funded institutions which will support enrollment, retention and graduation of ethnic minority students specifically in critical discipline areas such as math and science, teacher education, and health professions.

I would like to add as a postscript to my testimony, pertaining to Title IV, that the proposed income-dependent education assistant loan idea, which was introduced by Congressman Petri, offers a new way of providing Title IV assistance.

While we have not had an opportunity to fully analyze the impact of the proposed programs, I do encourage you to give it very serious study.

Thank you.

[The prepared statement of Adolfo R. (Sonny) Barrera follows:]

***Testimony***

**prepared for the**

**Subcommittee on Postsecondary Education**

**on the**

**Reauthorization of the Higher Education Act**

**by**

**Adolfo R. (Sonny) Barrera  
Assistant Vice President  
for Student Affairs  
and  
Director, Minority Student Affairs**

**July 22, 1991**

**Charles P. Rhinehart Music Auditorium  
3100 Claiborne Street  
Texas Southern University  
Houston, Texas**

Mr. Chairman,

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On November 8, 1965, President Lyndon B. Johnson returned to the campus of his Alma Mater, Southwest Texas State University, to sign into law the Higher Education Act. President Lyndon B. Johnson said, "Progress in education won't solve all our problems. But without progress in education, we can't solve any of our problems." It is with this spirit in mind that SWT goes on record in full support of the reauthorization of the Higher Education Act. Specifically, we focus our remarks (testimony) on Title III, Strengthening Institutions Program.

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In order to understand the magnitude of this challenge, it is necessary to describe the fabric of the diverse community which the university serves. Today, 50% of the public school children on the I-35 corridor are Hispanic (38%) and Black (12%), while the population of white students constitutes 50%. The new ethnic change of the region and Texas is reflected in the student population through the local school districts.

At the university, we anticipate that within ten years, the combined presence of Blacks and Hispanics will constitute a majority proportion of the university's total enrollment.

While it is heartening to anticipate the increase in diverse populations who choose to take advantage of the higher educational opportunities at SWT, there will remain a significant segment of the total population who will never reach for the opportunities the university offers. Poverty, lack of career and academic counseling, and first generation college bound status restricts a significant segment of minority students from attending college. Those who do enter SWT need specialized student support services and role models to help them succeed. Without these services, it is likely they will encounter "a revolving door", leaving college because of lack of skills and resources needed to achieve. To be successful with these students, universities like SWT must provide comprehensive, innovative programs, designed to create an academic environment that supports and provides "state of the art" student services.

With its current fiscal restraints, SWT cannot prepare for this challenge and conversion without external resources. Since state appropriations have dropped from 90% to 60% between 1984 and 1990, SWT is facing a crisis of greater demand with fewer resources.

To meet the challenge, a viable source for external funding is the Strengthening Institutions Program, Title III, of the Higher Education Act of 1965. While the SWT administration supports fully the reauthorization of Higher Education Act, SWT as a designated eligible institution under the Strengthening Institutions Program needs to pursue Title III funding. These potential funds are necessary to assist the institution to improve its academic quality, institutional management, fiscal stability, and strengthen our capacity to make a substantial contribution to the higher education resources of the nation. Through these development grant opportunities, SWT hopes to provide quality postsecondary educational opportunities for all citizens.

As the authors of One-Third of a Nation have urged, "America's institutions of higher learning must renew and strengthen their efforts to increase minority recruitment, retention and graduation." With this guidance in mind, the reauthorization of the Higher Education Act is imperative.

**SWT advances the following four recommendations pertinent to Title III funding for consideration:**

- 1) Eliminate granting waivers for eligibility to compete for Title III funds. Any and all developing institutions with vested interest in submitting competitive proposals for funding should be authorized to compete.**
- 2) Set aside funding for community colleges limits funds available for four-year colleges. SWT, as a four-year institution, favors funding proposals on merit rather than on classification.**
- 3) Expand the minority institution preference to include institutions such as SWT which demonstrate significant potential to increase its ethnic minority proportion of total enrollment given the availability of ethnic minority students in the college bound high school cohort.**
- 4) Enhance the fund raising activities of Title III funded institutions which will support enrollment, retention and graduation of ethnic minority students specifically in critical discipline areas such as Math/Science, Teacher Education, and the Health Professions.**

Mr. WASHINGTON. Thank you, Dr. Barrera. Dr. McMillan?

**STATEMENT OF JOSEPH T. MCMILLAN, JR., PRESIDENT, HUSTON-TILLOTSON COLLEGE**

Mr. MCMILLAN. Thank you, Mr. Chairman. Congressman Washington, Congressman Jefferson, members of the subcommittee who are not in attendance today but who will read transcripts and see tapes, I am Joseph T. McMillan, Jr., president of Huston-Tillotson College, located in Austin, Texas.

I call to your attention the error in the witness list, and that it is Joseph T. and not P., and because my dad is alive and well, I always carry the Junior.

Mr. WASHINGTON. Thank you.

Mr. MCMILLAN. Huston-Tillotson College is one of 41 member institutions of the United Negro College Fund, affectionately known as UNCF, and the oldest educational institution in the city of Austin.

We are, in fact, the largest minority business in the city of Austin, the greatest provider of minority baccalaureate education in the city of Austin. And I appear today on behalf of the 41 member institutions of the United Negro College Fund.

More than, or approximately 50,000, students enrolled at 41 member institutions are spread throughout 48 of the 50 States. An additional 1,504 international students from 30 foreign countries, and some 329 students from United States possessions, the Virgin Islands in particular.

I am pleased to have this opportunity very much to speak before this committee and to affirm the importance of the reauthorization of the Higher Education Act. Indeed, there is much more we all share in common in our commitment to higher education on this panel and the subsequent panels than we disagree.

And yet, there are certainly some subtleties whereby I would like to lift up a perspective which reflects the concern of the independent sector, notably the five historically black United Negro College Fund institutions in the State of Texas and, indeed, all 41 member institutions of the United Negro College Fund.

Perhaps a snapshot of the United Negro College Fund might be helpful. During the past few years, 31 of our 41 member institutions have experienced enrollment gains of some 16 percent over the past 4 years. At Huston-Tillotson College alone, we have experienced a growth of 38 percent enrollment increase in 1 year alone.

We now enroll about 715 students. Perhaps significantly, 80, or 11 percent, come from Harris County. A good number come from Louisiana also, Mr. Jefferson. And 79 students, or 11 percent, are international; 13 percent are from out of State. We also enrolled 79 percent African-American youths, some 3 percent Hispanic youths, some 3 percent Anglo youth, and some 3 percent Asian and other youth.

The Title IV programs provide very significant support for students at United Negro College Fund institutions and, indeed, some 61 percent of all UNCF students receive Pell Grants, 33 percent receive the SEOG Grant, 37 percent receive the College Work Study Grant, and some 51 percent receive Stafford Loans.

Most students receive multiple forms of the Title IV programs. It is very interesting to note that the United Negro College Fund presidents note with alarm that the number of borrowers from the Guaranteed Student Loan Program, the Stafford Loan Program, has doubled. This number has increased from some 11,000 in 1982-83 to some 22,000 by 1988-89, and the number and the percent of students who must borrow money each year continues to grow.

Thus, we end with the very simple notion that the Title IV program must clearly look at the Pell Grant as an entitlement program, just as Social Security is an entitlement program. Indeed, it is greater access to higher education at the front end of the age continuum.

It is so vital to the progress and equality of life in America, surely you must see it as an entitlement, just as Social Security benefits the aged, the infirmed, and the other very special categories at the other end of the continuum.

As you know, Title III was completely rewritten during the 1980 reauthorization period, and again in 1986. Title III is the single largest institutional aid program funded by the Federal Government under the Higher Education Act or any other general or Federal statute, including the Morrill Act.

As you know, Title III authorized three separate programs of funding for eligible institutions and provides direct institutional assistance to a variety of institutions of higher education, especially those serving a large number of low income students.

At Huston-Tillotson College, some 89 percent of our students are recipients of the Title IV programs. Three programs included, obviously, are the Strengthening Institutions Program; the Strengthening Historically Black Colleges and Universities Program, which includes Section 326 on the graduate professional schools; and the Endowment Challenge Grant Program.

United Negro College Fund, among others, has played a very significant role in working with Senator Paul Simon and Chairman Augustus Hawkins in rewriting this law, which constitutes the only real form of institutional assistance which most of the Historically Black Colleges and Universities receive from the Federal Government.

In our view, Part B of the Black College and University Act requires only minor changes in the Reauthorization Act. If it is not broken, do not fix it. And we are not suggesting that you would fix it, but would ask you to look at a few options which would strengthen the program and allow it to serve better those institutions which have been served.

Four important points and changes I would call to your attention for consideration:

First, I, too, join General Becton, Dr. Harris, and other colleagues who favor increasing the minimum grant from \$350,000 to \$500,000. In fact, the United Negro College Fund position is very strongly in favor of increasing the minimum grant from \$350,000 to \$500,000.

You might note that three institutions in Texas would be benefited by this; Wiley College, Jarvis College and Southwestern Christian College. Secondly—and, I note a typographical error in my draft of testimony. I note that it says the "Bus Administration."



Indeed, that is the Bush Administration program to establish a setaside of some \$20 million for Historically Black Colleges and Universities. We reaffirm, with a special emphasis on Part C, the Endowment Challenge Grant.

Huston-Tillotson College was turned down for a Challenge III Grant this past year, and we would certainly look forward to re-competing or re-entering an application for that. And that endowment building is critical to the success of all institutions, surely to smaller, liberal arts institutions and, indeed, to Historically Black Colleges and Universities.

Thirdly, we do favor adding new graduate and professional schools to Section 326 of Part B, and we identify those institutions in the draft. A more important thing, I think, though, is that I would like to call your attention another typographical error. And that is at the very bottom of page two of my draft, I note "but not both," and let me clarify what I mean by that.

We suggest to add five new graduate professional schools to Section 326 of Part B, including Xavier University School of Pharmacy; the Southern University School of Law; the Texas Southern University School of Law or the School of Pharmacy, but not both.

And the "but not both," in all due respect to Dr. Harris, suggests that in your good wisdom, that you would consider that support for one of the outstanding graduate schools of Texas Southern would be the support position from United Negro College Fund, but not both at this point in time.

But the "but not both" does not pertain, I should add, to the Florida A&M School of Law or Pharmaceutical Sciences, and the North Carolina Central University School of Law. And if you were to read the text as it is typed, the misplacing of the comma would suggest that the "but not both" pertains to Florida A&M and North Carolina.

But instead, I regret to say even in Texas, even in the esteemed auditorium of my good colleague, that but not both for Texas Southern is the position that we would take. Fourthly, we do favor, in fact, establishing a statutory mechanism for bringing the five new graduate schools, but not six, into Section 326 without reducing the funding for any of the current recipients.

In other words, hold harmless, grandfather their support through the current legislature, and do not jeopardize that funding unless there is significant funding that we can do both.

The UNCF supports inclusion of a uniform methodology for calculating the number of graduates who complete their studies in 4 or 5 years. Dr. Becton referred to the several technical things that could be done in the legislature that would make it easier to calculate the number of students who go on to graduate and professional school, and we do indeed favor that kind of legislature.

We also recommend inclusion of a general authority in Section 323, which would permit institutions to implement activities that are not currently funded, with an emphasis on teacher preparation or outreach programs or fund-raising, and strengthening those kinds of developmental aspects at the institutions, all of which are currently excluded from the legislature.

Under Part C, we believe that a cap in the amount of the endowment grant, though, would help all of us. As much as we favor not

both in the case of Texas Southern, we favor not allowing any one institution to receive such a high percentage of allocation that it would not be possible for other institutions to build an endowment.

Finally, we strongly support other authorization of \$150 million. I would urge it to be raised to at least \$250 million in the course of the 5-year life of the authorization.

United Negro College Fund and Huston-Tillotson College and I, personally, am indeed very pleased with the progress that has occurred in the course of the life of the Nation since the last authorization of the Higher Education Act in 1986.

Indeed, concepts of access, concepts of choice for all American students, and the importance of diversity in higher education; the public sector or the private sector, the small college, the large college. Texas Southern and Huston-Tillotson College, and all the State universities of this State all provide something very, very important that we have to affirm in this reauthorization.

So let there be no doubt about it, we all favor reauthorization of higher education as a commitment nationally to preparing young people for global leadership, for the challenges of the 21st century. And this is one of the great ways that our government can make a commitment to young people in a way that will be surpassed by no other option and by no other nation.

And I want to affirm the importance of that at this critical time, and thank you for this opportunity to share with you some of the subtleties of variation among the institutions as we join in commitment to higher education. And thank you for your leadership in this effort.

[The prepared statement of Joseph T. McMillan, Jr. follows:]

TESTIMONY OF DR. JOSEPH T. McMILLAN, JR.  
PRESIDENT OF HUSTON-TILLOTSON COLLEGE, AUSTIN, TEXAS

ON BEHALF OF

THE UNITED NEGRO COLLEGE FUND, INC.

BEFORE A FIELD HEARING OF THE  
HOUSE SUBCOMMITTEE ON POSTSECONDARY EDUCATION

HONORABLE CRAIG WASHINGTON, PRESIDING  
TEXAS SOUTHERN UNIVERSITY  
HOUSTON, TEXAS

July 22, 1991

MR. CHAIRMAN, MEMBERS OF THE SUBCOMMITTEE, I AM JOSEPH T. McMILLAN, JR., PRESIDENT OF HUSTON-TILLOTSON COLLEGE IN AUSTIN, TEXAS. HUSTON-TILLOTSON COLLEGE IS ONE OF THE FORTY-ONE MEMBER INSTITUTIONS OF THE UNITED NEGRO COLLEGE FUND (UNCF) AND I APPEAR TODAY ON BEHALF OF OUR MEMBER PRESIDENTS. AND ALMOST 50,000 STUDENTS FROM 48 OF THE FIFTY STATES AND 1,504 INTERNATIONAL STUDENTS FROM 30 FOREIGN COUNTRIES AND 339 STUDENTS FROM OUR U.S. POSSESSIONS.

I AM PLEASED TO HAVE THIS OPPORTUNITY TO SPEAK TO YOU ABOUT THE NEED TO REVISE AND EXTEND TITLE III OF THE HIGHER EDUCATION ACT AND TO TALK SPECIFICALLY ABOUT PART B, THE BLACK COLLEGE AND UNIVERSITY ACT.

IN ORDER TO SET UNCF'S RECOMMENDATIONS FOR REAUTHORIZATION OF TITLE III OF THE HIGHER EDUCATION ACT IN CONTEXT FOR THE SUBCOMMITTEE, I BELIEVE IT IS APPROPRIATE TO GIVE YOU A "SNAPSHOT" OF STUDENTS ENROLLED AT UNCF'S 41 MEMBER INSTITUTIONS AS A GROUP.

DURING THE PAST FEW YEARS, 31 OF OUR 41 MEMBER INSTITUTIONS HAVE EXPERIENCED ENROLLMENT GAINS OF 16 PERCENT OVER THE PAST FOUR YEARS. WE NOW ENROLL 49,397 STUDENTS. AS PRIMARY BENEFICIARIES OF TITLE IV AID -- SIXTY-ONE PERCENT OF ALL UNCF STUDENTS RECEIVE PELL GRANTS; 33 PERCENT RECEIVE SBOGs; 37 PERCENT RECEIVE COLLEGE WORK STUDENT; AND 51 PERCENT RECEIVE STAFFORD LOANS; AND MOST RECEIVE MULTIPLE FORMS OF THIS ASSISTANCE. UNCF PRESIDENTS NOTE -- WITH ALARM -- THE FACT THAT THE NUMBER OF STUDENT BORROWERS IN THE GSL (STAFFORD LOANS) HAS ALMOST DOUBLED FROM 11,000 IN 1982-83 TO ALMOST 22,000 IN 1988-89. INCREASINGLY, UNCF STUDENTS ARE BECOMING OVER-BURDENED WITH DEBT -- IN 1979-80, EIGHT PERCENT OF ALL UNCF STUDENTS RECEIVED GUARANTEED STUDENT LOANS, WHILE IN 1987-88, MORE THAN ONE-HALF OF ALL UNCF STUDENTS RECEIVE STAFFORD LOANS. I MENTION THIS TO YOU TODAY TO MAKE TWO POINTS REALLY: (1) INSTITUTIONS LIKE HUSTON-TILLOTSON COLLEGE ARE HELPING THE FEDERAL GOVERNMENT FULFILL ITS "ACCESS" MISSION BY ENROLLING LOW-INCOME AND MINORITY STUDENTS WHO GET BACCALAUREATE DEGREES AND BECOME TAX-PAYING CITIZENS; AND (2) IN ADDITION TO ALL YOU DO FOR BLACK COLLEGES, WHICH WE VERY MUCH APPRECIATE, THROUGH TITLE III -- THE TITLE IV AID YOU PROVIDE TO OUR STUDENTS IS OUR LIFELINE AND THEIR PASSPORT TO ESCAPE THE SECOND-GENERATION BURDENS OF DISCRIMINATION IN AMERICA. WE HOPE YOU WILL KEEP IN MIND AS YOU DEBATE WHETHER OR NOT TO MAKE THE PELL GRANT A REAL ENTITLEMENT -- WE HOPE THAT YOU WILL!

SINCE TITLE III WAS REWRITTEN AS THE BLACK COLLEGE AND UNIVERSITY ACT IN PART B IN 1986, UNCF MEMBER INSTITUTIONS HAVE BENEFITTED IMMENSELY FROM THE MUCH MORE CAREFULLY TARGETED, FORMULA-DRIVEN PROGRAM WHICH PROVIDES ALMOST \$38 MILLION TO PRIVATE HISTORICALLY BLACK COLLEGES AND UNIVERSITIES. AND \$89 MILLION TO THE ENTIRE UNIVERSE OF UNDERGRADUATE HBCUs. ADDITIONALLY, ANOTHER \$11.3 MILLION IS PROVIDED TO FIVE HISTORICALLY BLACK PROFESSIONAL AND GRADUATE SCHOOLS -- CLARK ATLANTA UNIVERSITY (GRADUATE SCHOOL), THE TUSKEGEE UNIVERSITY SCHOOL OF VETERINARY MEDICINE, THE MOREHOUSE SCHOOL OF MEDICINE, THE MEHARRY MEDICAL COLLEGE, AND THE CHARLES R. DREW SCHOOL OF POSTGRADUATE MEDICINE.

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TITLE III WAS COMPLETELY RE-WRITTEN DURING THE 1980 REAUTHORIZATION AND AGAIN IN THE HIGHER EDUCATION ACT AMENDMENTS OF 1986 (P.L. 99-498). IT IS THE SINGLE LARGEST INSTITUTIONAL AID PROGRAM FUNDED BY THE FEDERAL GOVERNMENT UNDER THE HIGHER EDUCATION ACT OR ANY OTHER FEDERAL STATUTE, INCLUDING THE MORRILL ACT. TITLE III AUTHORIZES THREE SEPARATE PROGRAMS OF FUNDING FOR ELIGIBLE INSTITUTIONS AND PROVIDES DIRECT INSTITUTIONAL ASSISTANCE TO A VARIETY OF INSTITUTIONS OF HIGHER EDUCATION, ESPECIALLY THOSE SERVING LARGE NUMBERS OF LOW INCOME STUDENTS. THE THREE PROGRAMS INCLUDE: (1) THE STRENGTHENING INSTITUTIONS PROGRAM; (2) THE STRENGTHENING HISTORICALLY BLACK COLLEGES AND UNIVERSITIES PROGRAM (INCLUDING SECTION 326 FOR GRADUATE AND PROFESSIONAL SCHOOLS); AND (3) THE ENDOWMENT CHALLENGE GRANT PROGRAM.

THE TITLE III, INSTITUTIONAL AID PORTION OF THE ACT WAS REVISED TO REFLECT THE OUTLINE DESCRIBED ABOVE IN THE 1986 AMENDMENTS. UNCF, AMONG OTHERS, PLAYED A SIGNIFICANT ROLE IN WORKING WITH SENATOR PAUL SIMON AND CHAIRMAN AUGUSTUS F. HAWKINS IN RE-WRITING THIS LAW WHICH CONSTITUTES THE ONLY REAL FORM OF INSTITUTIONAL ASSISTANCE MOST HBCUs RECEIVE FROM THE FEDERAL GOVERNMENT. IN OUR VIEW, THE PART B, BLACK COLLEGE AND UNIVERSITY ACT REQUIRES ONLY MINOR CHANGES IN ORDER TO FULFILL ITS STATED GOAL OF ENHANCING AMERICA'S HISTORICALLY BLACK INSTITUTIONS OF HIGHER EDUCATION. WE HAVE BEEN WORKING REPRESENTATIVES OF THE PUBLIC BLACK COLLEGES AS WELL AS THE BLACK PROFESSIONAL AND GRADUATE SCHOOLS TO DEVELOP A SERIES OF LEGISLATIVE RECOMMENDATIONS AFFECTING PART B. UNCF SUPPORTS FOUR IMPORTANT CHANGES IN TITLE III:

- \* INCREASE THE PART B FLOOR OR MINIMUM GRANT FROM \$350,000 TO \$500,000 IN ORDER TO PROVIDE A MINIMUM LEVEL OF FUNDING FOR THE SMALLEST HBCUs WHICH ARE ELIGIBLE TO PARTICIPATE. THIS CHANGE AFFECTS ONLY FOURTEEN PART B INSTITUTIONS.
- \* ENACT THE BUS ADMINISTRATION PROPOSAL TO ESTABLISH A "SET-A-SIDE" OF \$ 20 MILLION FOR HBCUs IN THE PART C, CHALLENGE (ENDOWMENT) GRANT PROGRAM, WITH A PART C AUTHORIZATION OF \$175 MILLION FOR FY 1994.
- \* ADD FIVE NEW GRADUATE/PROFESSIONAL SCHOOLS TO SECTION 326 OF PART B, INCLUDING THE XAVIER UNIVERSITY SCHOOL OF PHARMACY, THE SOUTHERN UNIVERSITY SCHOOL OF LAW, THE TEXAS SOUTHERN UNIVERSITY (THURGOOD MARSHALL) SCHOOL OF LAW (OR THE SCHOOL OF PHARMACY), BUT NOT BOTH, THE FLORIDA A&M UNIVERSITY SCHOOL OF PHARMACEUTICAL SCIENCES, AND THE NORTH CAROLINA CENTRAL UNIVERSITY SCHOOL OF LAW, WITH PROVISIONS PROTECTING THE EXISTING GRANTS ALREADY MADE TO THE ORIGINAL FIVE SCHOOLS THROUGH FISCAL YEAR 1994 OR THE LIFE OF THE CURRENT GRANTS.

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- \* ESTABLISH A STATUTORY MECHANISM FOR BRINGING THE FIVE NEW GRADUATE INSTITUTIONS INTO SECTION 326 WITHOUT REDUCING FUNDING TO ANY OF THE CURRENT PARTICIPANTS. WE OPPOSE THE INTRODUCTION OF A "GENERIC" GRADUATE AUTHORIZATION BECAUSE THIS WILL CREATE A SUBSTANTIAL DRAIN ON LIMITED TITLE III FUNDS BY FUNDING GRADUATE PROGRAMS WHERE AFRICAN AMERICANS, ALTHOUGH UNDERREPRESENTED, DO NOT REQUIRE AS MUCH ATTENTION AS IN THE HEALTH PROFESSIONS, MEDICINE AND LAW.

UNCF ALSO SUPPORTS INCLUSION OF A UNIFORM METHODOLOGY FOR CALCULATING THE NUMBER OF GRADUATES WHO COMPLETE THEIR STUDIES IN FOUR/FIVE YEARS, AND WHO ENTER GRADUATE OR PROFESSIONAL SCHOOL WITHIN A FIVE YEAR "LOOK-BACK" PERIOD. ADDITIONALLY, UNCF RECOMMENDS INCLUSION OF A GENERAL AUTHORITY IN SECTION 323 WHICH WOULD PERMIT INSTITUTIONS TO IMPLEMENT ACTIVITIES, THAT CONTRIBUTE TO CARRYING OUT THE OVERALL PURPOSES OF PART B, BUT ARE NOT SPECIFICALLY SPELLED-OUT IN THE AUTHORIZED ACTIVITIES. SUCH ACTIVITIES WOULD INCLUDE FUNDRAISING AND DEVELOPMENT, ENHANCING MINORITY TEACHER PREPARATION AND OUTREACH PROGRAMS.

IN PART C, UNCF BELIEVES THAT A "CAP" ON THE AMOUNT OF A PART C GRANT, RELATIVE TO THE SIZE OF THE OVERALL PART C APPROPRIATION IS NEEDED. THIS IS INTENDED TO PREVENT A FEW SMALL GRANTS FROM ABSORBING THE ENTIRE PART C APPROPRIATION. WE WOULD SUGGEST A \$500 THOUSAND CAP WHEN THE APPROPRIATION IS \$11 MILLION OR LESS; A \$1 MILLION CAP WHEN FUNDING IS ABOVE \$11 MILLION BUT BELOW \$21 MILLION; AND NO LIMIT WHEN THE APPROPRIATION IS \$21 MILLION OR GREATER. FINALLY, WE THINK REDUCING THE "SIT-OUT" PERIOD FOR THOSE INSTITUTIONS WHICH SUCCESSFULLY PURSUED A LARGE MATCHING GRANT (\$2 FEDERAL FOR EACH \$1 PRIVATELY-RAISED) FROM TEN YEARS TO FIVE YEARS IS WARRANTED.

WE STRONGLY SUPPORT A PART B AUTHORIZATION OF \$150 MILLION RISING TO \$250 MILLION DURING THE FIVE YEAR LIFE OF THE AUTHORIZATION.

UNCF IS PLEASED WITH THE PROGRESS MADE THUS FAR WITH THE REVISED BLACK COLLEGE AND UNIVERSITY ACT PROGRAM ESTABLISHED IN 1986. WE ENCOURAGE CONGRESS TO FOLLOW THE AGE-OLD PRINCIPLE -- IF IT'S NOT BROKEN, DON'T FIX IT -- DURING THE CURRENT REAUTHORIZATION PROCESS!

I WOULD BE PLEASED TO ANSWER ANY QUESTIONS YOU MAY HAVE.

Mr. WASHINGTON. Thank you very much, Dr. McMillan. Dr. Pacheco?

Mr. McMILLAN. By the way, come to Huston-Tillotson when you are in Austin one of these times, and see all the students from Texas, from Harris County and, indeed, from Louisiana who contribute to this better world that we are providing an opportunity for young people to succeed and grasp.

Mr. WASHINGTON. I will pay you a visit in the next several weeks; I will be in Austin.

Mr. McMILLAN. Look forward to seeing you.

Mr. WASHINGTON. Thank you.

#### STATEMENT OF ARTURO PACHECO, VICE-PRESIDENT, UNIVERSITY OF TEXAS AT EL PASO

Mr. PACHECO. Congressman Washington, Congressman Jefferson, thank you very much for the opportunity to testify before you today.

My name is Arturo Pacheco. I am vice-president of the University of Texas at El Paso. Like most higher education institutions across the country, we are observing with great interest and anticipation the forthcoming reauthorization of the Higher Education Act.

Our institution, the University of Texas at El Paso, or UTEP, as it is fondly called by all, is looking with particular interest at Title III of the Act. We are a developing institution and we are the largest Hispanic-majority university in the continental United States.

UTEP, situated on the Texas/Mexican border at the most western edge of Texas, has nearly 17,000 students. Of these, approximately 60 percent are Hispanic, 3 percent are African-American, 7 percent are international (mostly Mexican), and 30 percent are Anglo.

Our student composition reflects that of the city of El Paso, which now has a population of approximately 600,000. The city is approximately 70 percent Hispanic, 3 percent black, and 26 percent Anglo. Across the Rio Grande River, which runs along one edge of the campus is the Mexican city of Juarez, a growing city of 1.2 million people.

UTEP is the major comprehensive university in this region of Texas. The entire region depends on UTEP for access to higher education. The next closest public institution is more than 200 miles away; that is, within Texas. Over 90 percent of UTEP's students are from the immediate metropolitan area.

Like our sister institutions along the border, we serve a primarily working class and low income population. Our congressional district is the fifth poorest in the United States. Unemployment is very high and El Paso's per capita income is 37 percent less than the national average and 29 percent less than the average for Texas.

Seventy-five percent of the adults over 25 years of age in El Paso have not completed high school, and the drop-out rate is close to 50 percent in some areas. I cite this data to emphasize how critically important our institution is in terms of access to higher education



in our region. For most, it is the only opportunity for higher education.

Our students are extremely industrious and hard-working. Nearly all live at home with their families and commute to school. Approximately 75 percent of our students are first in their families to go to college, and about 70 percent work full or part-time while attending college.

Most of our students are heavily dependent on financial aid, and even slight increases in tuition or fees often cause delays in their academic progress. Yet, although they take a bit longer to complete their studies for their degrees, our graduation and retention rates are quite respectable when compared to other public institutions.

The reauthorization of the Higher Education Act, and especially Title III and Title IV are of critical importance to developing Hispanic-majority institutions like our own. Just as Title III has been a life-line to historically black institutions, we are hopeful that Title III will be of increased assistance under a reauthorized Higher Education Act to institutions like our own.

Institutions like ours have been increasingly successful in removing the barriers of access to higher education, which have long been in place for minority and low income students. We are very proud of this success, and our very rapid increase in enrollments indicates that we are serving well the minority and low income students in our region.

Our institution has a long history of providing the future leaders of the El Paso metropolitan region, and increasing numbers of minority individuals are taking positions of considerable responsibility. Graduates of our institution are also increasingly recruited by business and industry across the country, particularly in areas of science and engineering, where we have been uniquely successful.

In addition, increasing numbers of our graduates are successfully entering graduate school in Texas and elsewhere. This success, however, come at a very time when the institutions of higher education like ours in Texas are facing the dual strains of decreasing State funding and increasing student fees and tuition for those who can afford it least.

A renewed and strengthened partnership with the Federal Government to equalize educational opportunity has never been more important than it is now. Title III and Title IV of the Higher Education Act are perhaps the most critical mechanisms that the Federal Government has to continue to guarantee not only access to higher education, but continuing academic success in completing degree programs.

In partnership with the Federal Government, we have been very successful in opening the door to higher education to those who have been traditionally deprived.

An expanded Title III will not only allow us to continue to keep the door open, but will allow us to attract and train the very best faculty that we can, to develop the highest quality curriculum and programs, and to guarantee to our students—who deserve the very best of educations—not only that they be academically successful but will emerge as leaders in a new and more equitable society in the 21st century.



We strongly support increased funding to both Part A and Part B of the Higher Education Act.

Mr. Chairman, distinguished colleagues, thank you for the opportunity to speak before you today.

[The prepared statement of Arturo Pacheco follows:]

**Testimony by Dr. Arturo Pacheco  
Vice President, University of Texas at El Paso**

**Texas Southern University  
Houston, Texas  
July 22, 1991**

Congressman Washington, distinguished members of this hearing, thank you for the opportunity to testify before you today. My name is Dr. Arturo Pacheco, and I am Vice President of the University of Texas at El Paso. Like most higher education institutions across the country, we are observing with great interest the forthcoming reauthorization of the Higher Education Act. Our institution, the University of Texas at El Paso, or UTEP, as it affectionately called by all, is looking with particular interest at Title III of the Act. We are a developing institution and we are the largest Hispanic-serving university in the continental United States.

UTEP, situated on the Texas/Mexico border at the most Western edge of Texas, has nearly 17,000 students. Of these, approximately 60% are Hispanic, 3% are African American, 7% are International (mostly from Mexico), and 30% are Anglo. Our student composition reflects that of the city of El Paso, which now has a population of approximately 600,000. The city is approximately 70% Hispanic, 3% Black, and 26% Anglo. Across the Rio Grande River which runs along one edge of the campus is the Mexican city of Juarez, with a growing population of 1.2 million people.

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Like other institutions along the border, we serve a primarily working class and low income population. Our congressional district is the fifth poorest in the United States. Unemployment is very high and El Paso's per capita income is 37% less than the national average and 29% less than the average for Texas. 75% of the adults over 25 years of age have not completed high school, and the drop-out rate is close to 50% in some areas. I cite this data to emphasize how critically important our institution is in terms of access to higher education in our region. For most, we are the only opportunity for higher education.

Our students are extremely industrious and hard-working. Nearly all live at home with their families and commute to school. Approximately 75% are first in their families to go to college, and about 70% work full-time or part-time while attending college. Most of our students are heavily dependent on financial aid, and even slight increases in tuition or fees often cause delays in their academic progress. Yet, although they take a bit longer to complete their degrees, our graduation and retention rates are quite respectable when compared to other similar public institutions.

The reauthorization of the Higher Education Act, and especially Title III and Title IV are of critical importance to developing and Hispanic-majority institutions like our own. Just

as Title III has been a life-line to historically Black institutions, we are hopeful that Title III will be of increased assistance under a reauthorized Higher Education Act.

Institutions like our own have been increasingly successful in removing the barriers of access to higher education, which have long been in place for minority and low-income students. We are very proud of this success, and our very rapid increase in enrollments indicates that we are serving well the minority and low income students in our region. Our institution has a long history of providing the future leaders of the El Paso metropolitan region, and increasing numbers of minority individuals are taking positions of considerable responsibility. Graduates of our institution are also increasingly recruited by business and industry across the country, particularly in the areas of science, and engineering, where we have been uniquely successful. In addition, increasing numbers of our graduates are successfully entering graduate school in Texas and elsewhere.

This success, however, comes at the very time when institutions of higher education like ours in Texas are facing the dual strains of decreasing state funding and increasing student fees and tuition for those who can afford it least. A renewed and strengthened partnership with the Federal government to equalize educational opportunity has never been more important than it is now.

Title III and Title IV of the Higher Education Act are perhaps the most critical mechanism that the Federal government

has to continue to guarantee not only access to higher education, but continuing academic success in completing degree programs. In partnership with the Federal government, we have been very successful in opening the door to higher education to those who have been traditionally deprived. An expanded Title III will not only allow us to continue to keep the door open, but will allow us to attract and train the very best faculty that we can, to develop the highest quality curriculum and programs, and to guarantee that our students--who deserve the very best of educations--will not only be academically successful but will emerge as leaders in a new and more equitable society in the 20th Century.

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Mr. WASHINGTON. Thank you very much, Dr. Pacheco. Congressman Jefferson?

Mr. JEFFE. SON. I will be very brief. Dr. Pacheco, let me ask you, when you talk about an expanded Title III, what specifically do you have in mind?

Mr. PACHECO. Increased funding, particularly for those 4-year institutions in Part A. There will be an increased number of institutions that have majority needy students and the funding, as was mentioned earlier in the testimony, is insufficient to provide for those institutions in Part A.

So expanded in terms of increased funding for eligible institutions.

Mr. JEFFERSON. Dr. McMillan, let me ask you, you spoke on behalf of UNCF and, as I mentioned earlier, Mr. Washington and other members of Congress and I will have some legislation to deal with on many of the issues you talked about.

You talked briefly about the issue of teacher education, of reaching into high schools to bring more minority teachers onto the rolls, and to have young people who are interested in teaching careers.

I would hope, perhaps not now, but you might be more specific about it. In the future, perhaps you can submit something to the committee along the lines you have in mind. Or, if you have a little something now you might say to elucidate your thought in that regard.

Mr. McMILLAN. Well, the suggestion was to include within Title III, Part B, specific language which encourages the development of teacher preparation, teacher recruitment and other support programs for those who would pursue careers in secondary education or secondary elementary education, and to make provisions for that in the language.

Currently, that is not a specific notation in the development of proposals by institutions for funding under Title III. Teacher education is often short shift or in the staff support and clarification of what should and should not be included. Because it receives no highlight in the language, it does not receive much encouragement.

Mr. JEFFERSON. I was thinking you might have been encouraging not only that but something different in the way that you dealt with the financial aid for persons interested in that career. One problem of financial aid, of course, is when you look at the burden that the people are having to deal with, they are driven away from careers that do not pay a lot of money, one of which people think teaching is.

I do not know what it is in every case, but that seems to be the thinking of many people that if you want to make a lot of money, do not go into teaching. And so, therefore, if you are looking for a big expense, a big debt, then you may not take up that or some other.

So I wanted to know what you think along those lines.

Mr. McMILLAN. I would be very pleased to do that because, indeed, the early national ex-student loan program was centered around encouraging persons to go not only into the defense related fields, but into education. And I think a new language in the reauthorization would be very helpful in that regard.

Mr. JEFFERSON. Okay. Thank you very much.

Mr. McMILLAN. Reduced burden for those who pursue careers, for example, and other kinds of variations on that, indeed, have been discussed in various quarters and would indeed be very timely.

Mr. JEFFERSON. Thank you. Mr Chairman?

Mr. WASHINGTON. Thank you, Congressman Jefferson. If I could just follow up on the last colloquy between the Congressman and Dr. McMillan. Last year in the last Congress, I attended a hearing up at Brown University. I was not a member of the subcommittee at that time, but accommodated the Chairman because I had a lot of free time on my hands as a freshman.

But it was a very interesting hearing. One of the concepts that was developed there was the notion of loan forgiveness for certain targeted areas where you have too few teachers in the rural areas and in some highly metropolitan areas. I think that would probably—that El Paso was written up.

And it seemed similar to the broad range of things that we have talked about here today, especially in the area of getting more people into education—because, realistically, you cannot expect, at least as a threshold, that this loan imbalance used to be 25 percent loans to 75 percent grants, and now it is the other way around.

If I were a young person, 22 years old or so, getting out of college and had amassed \$30,000–\$40,000 in loans, I would not have the ability to sit around and wait to pick a job or to take the job that I really wanted in my heart of hearts. If I had a choice of a job that paid me a fairly decent wage, I would probably go ahead and take it, perhaps sometimes to the detriment of an entire career.

It seems to me if we can do something to level that off again, and also to encourage more people to go into teaching by saying if they worked 5 years in one of these targeted areas, the Federal Government would forgive these loans.

I think that the Federal Government would be making a very important contribution to getting more people into education which, of course, helps not only at that level—at the college level—but also helps the young people who are coming up through the system by demonstrating more role models and more people who are dedicated to education as a career, not as a stopping place in their lives.

Do any of you think that that is a good idea, or something we should pursue? Dr. Pacheco?

Mr. PACHECO. Yes, I would like to speak in favor of that idea. There have been similar programs in the past. As the grant to loan ratio changes over time, we are finding that some young people are shying away from those fields that they know are not immediately lucrative upon graduation.

Teaching is just one of those fields. We find increasing numbers of young people, for example, choosing business, which is well-to-do on its own merits, but if the only reason for choosing business is, in fact, so that they can have lucrative positions and be able to pay loans right away, we are then shortchanging our student bodies into going into those fields that the entire Nation needs, typically those fields of public service like teaching, health work.

So I strongly support that kind of investigation.

Mr. WASHINGTON. Thank you, sir. Dr. Green?

Mr. GREEN. Congressman Washington, I am a product of a similar thing. When the National Defense Loan first came out, I was only able to graduate because it was there my last year. And one of the clauses allowed me, if I served in the military, to be relieved of the interest of that.

So for 10 years, I was able to rise to a level where my income allowed me to be capable of paying that back. And certainly, those kinds of things are real to the individual that is trying and striving—as we talk about the disadvantaged schools—in any way they can to meet the limitations of completing their work. Those individuals who are encumbering these large loans—as have been pointed out by my colleagues here—and that we all know, when they come out, are having great difficulty paying back by the number of defaults we have.

So I think it might be in our best interests to tie some possible paybacks to some needs both nationally and locally that would also decrease the number of loan defaults.

Mr. WASHINGTON. Thank you very much. We appreciate very much the testimony that you have given to us. We would like for you to stay in touch with us or through the committee. Chairman Ford, of course as you know, has been a leader in the field of education for many, many sessions of Congress.

We are happy to have his leadership—the leadership of Chairman Ford—and I assure you that we will come out with a good work product. We would like you to keep your input and ideas, not only that you expressed here, but other matters of concern to us such as the so-called non-traditional student, which we have not touched on here.

As you know, we had some 40 odd field hearings like this around the Nation. And Congressman Jefferson and I were fortunate enough to spend the Fourth of July weekend out in Hawaii attending hearings on two different islands to learn of the nature, breadth and scope of the problems there.

I am sure you all know because you travel in educational circles around the country, but perhaps some of those in the audience were not aware that—it seems to me, at least—and, I would like to have Congressman Jefferson's comments—I was quite fascinated to know that the nature of the problems such as those that you have touched upon are not distinct to this area.

They are not distinctive to minorities. They traverse this country, as I say, from Rhode Island where I attended the hearing at Brown University, all the way to Hawaii and all points in between. I have had an opportunity to read press accounts from some of the other hearings that I have not attended; to read summaries of some of those, and to read some of the actual testimony.

I look forward, in fact, this coming Saturday to attending a hearing over in New Orleans at the behest of Congressman Jefferson where we will entertain additional testimony. What you do is so vitally important to our work, as Congressman Jefferson eloquently pointed out earlier.

If we agree with the notion that is inside the beltway where we are talking to each other, and we are—that only the ideas that are



inside the beltway are important, then the Congress has really missed its mission.

These field hearings afford us an opportunity to have some cannon fighters, some grist to take back; real live examples of what is happening out in the real world where we pretend to legislate on your behalf, on behalf of the students that you serve.

So what I am inviting you to do is to stay in touch with us. I will be visiting some of your campuses. I have good working relationships with most of you and with most of your institutions, and I plan to continue to do that.

Remember that we are just a sounding board; that you are the professional educators and the administrators, and we invite your participation now and in the future toward making the Higher Education Act and all that follows it a realization of what we know that it could be.

Mr. McMILLAN. May I make another comment?

Mr. WASHINGTON. Yes, please.

Mr. McMILLAN. Your comment about non-traditional students reminded me of a very interesting subtle point that I think I would like to share with you.

Mr. WASHINGTON. Sure.

Mr. McMILLAN. Many members of the higher education community favor what is known as front-loading—that of encouraging first- and second-year students to receive grants, third- and fourth-year students to receive loans.

My own position, the position of Huston-Tillotson College and the United Negro College Fund position does not support that for the very reference that you make to non-traditional students. At Huston-Tillotson College, a significant number of our students are transfer students, and are older students, students who have attended Southern Methodist University, University of Texas at Austin, and other institutions throughout the State and Nation.

If these students were to use up their eligibility for the Pell Grant during their first and second years at these institutions, when they come to us, then, they would no longer be eligible for a grant and would further exacerbate the amount of loans that students have to take in order to complete their education.

Which is why we take a more of a middle of the road position that encourages raising the maximum award to \$4,400, but do not favor restricting grants to first and second year students because of the non-traditional number of students we serve at the age non-traditional level.

Mr. WASHINGTON. That is a very valuable additional comment. I had not thought about the notion of transfer students because, quite frankly, I—at least without further elaboration on education—tend to lean toward that so-called front-loading approach, because most of the students—I am told, at least—who do not successfully matriculate are those who are in the first- and second-years.

And of course, the Federal Government will be picking up more of the responsibility and lightening the load on the individual student.

Dr. Thomas-Smith?

**Ms. THOMAS-SMITH.** I, too, corroborate that point that I think it would be a serious impediment to those students who are planning to matriculate to the 4-year colleges and universities.

If upon completing the 2-year program, having gotten their grants and whatever, they are finding that they are having to go into the loan—heavily burden themselves—to come to the 4-year schools, I think that we would find that we would have lowered college going rates instead of enhanced, heightened rates. Yes.

**Mr. WASHINGTON.** Thank all of you very much for your testimony. Congressman Jefferson?

**Mr. JEFFERSON.** No, I suppose we had better let this panel go and get to the next one. But I just wanted to say that, when we have so many people going to community colleges, this becomes a particular problem. And a great number of minority students in the country—the overwhelming majority of them—are now in community colleges starting out.

Some do not go any farther than that, but others do transfer to 4-year schools. And when they do—if they do—then it really would be. So we would have to make some allowances for that sort of thing as we go through this.

Okay. Thank you very much.

**Mr. WASHINGTON.** Thank you very much for your testimony.

We would like to convene now panel number 2, which will be Mr. Ronnie Davis, president of the council of student organizations at Prairie View A&M University, Mr. Garth Davis, president of the University of Texas student's association.

In addition to those who are listed as witnesses, the committee will be pleased to hear from Ms. Erica Moshay, representing Texas Southern University.

I would like to welcome all of you to the subcommittee, and thank you very much for—the subcommittee will come back to order. We will proceed with panel 2. Thank you very much.

I would like to welcome all of you to the subcommittee, and thank you for taking time out of your schedule to come and give us an additional perspective on something that is important to all of us, but most important to you. You are the *raison d'être* for all that we attempt to do, for if there were no students, there would be no institutions or higher education. And so your testimony is vitally important.

I would like to go from your right to left. Maybe I will start at the other end so I can take the ladies first. Being an old Southern gentleman, if you gentlemen and Mr. Davis do not mind down on the other end, I would like to start at the other end.

**Ms. Moshay?**

#### STATEMENT OF ERICA MOSHAY, STUDENT, TEXAS SOUTHERN UNIVERSITY

**Ms. MOSHAY.** My name is Erica Moshay, and presently I am a student at Texas Southern University. And I am here to discuss the financial aid process at Texas Southern University.

The financial aid process, or the procedures required to apply for and to receive financial aid at Texas Southern University are, for

the most part, pretty much the same as those required by other institutions.

Students at the Texas Southern University can apply for the same type of financial aid programs that are available to students—

Mr. WASHINGTON. You have a soft voice.

Ms. MOSHAY. The financial aid process at Texas Southern University. The financial aid process, or procedures required to apply for and to receive financial aid at Texas Southern University are, for the most part, pretty much the same as those required by other institutions.

Students at Texas Southern University can apply for the same types of financial aid programs that are available to students at other universities, colleges and vocational schools throughout the country.

Regardless of what type of educational institution a person chooses to pursue his or her career objectives, they must—if they are going to finance their education through financial aid sources—must start the process somewhere by completing some type of forms.

These forms, even though they are very time-consuming and they may get a little confusing, are necessary in order to receive financial aid. They require a person to have patience. They require a person to have or to develop a strong sense of success.

Texas Southern University Office of Financial Aid requires that all students who are applying for financial aid to complete various forms. Students who inquire early, prior to their enrollment into the university, often have less difficulty in receiving that aid, as opposed to the person who waits until the last minute in order to apply for financial aid.

Applying for and receiving aid depends on whether or not the student has completed all the necessary forms required by the university office of financial aid. These forms include completing and submitting to a processing center in Iowa the ACT student financial aid statement, the Texas Southern University general financial aid application, and also providing the office of financial aid transcripts from prior colleges attended.

Once a student has completed the ACT package and a processing center has provided the student with their Student Aid Report, they are to take or mail them to the office of financial aid. Students who have not provided the office of financial aid with the above information will have difficulty in receiving financial aid prior to a particular semester of enrollment.

Students who have incomplete files will also experience difficulties in having their financial aid in place at the time of admitting into the university for a particular semester. To eliminate the delay, it is advisable for a student to apply for financial aid very early.

There are many types of aid that a student can apply for at Texas Southern University, but whether or not the student is eligible to receive any aid is dependent upon many different reasons.

Scholarships, which everyone wants to apply for, are limited. Students must have a GPA of 3.0 or above in order to receive a scholarship. However, many students are not aware of this fact.

Nor are they willing to accept this as a criterion to receive a scholarship.

College work-study is another area that students pursue. They think that anyone can get on work-study once they ask to do so. This, too, is a myth. A student must be eligible to receive work-study. They must apply for it, and they must complete forms. However, many fail to follow procedures.

They think that just because they want it, they should get it. They fail to realize that if they have not applied for any type of financial aid, they cannot receive work-study. This, too, is a part of the financial aid process.

The awarding of various grants is based on the information from the processing center. Students often think that once they have submitted their information to the processing center, and the center sends them back the information letting them know that they are eligible to receive the Pell Grant, that that is all they have to do.

They fail to realize that they must give the information to the office of financial aid. Or, they will only give the office part of the information sent to them. Time is often lost because a student did not provide information to the financial aid office on time.

The forms can be shortened so that the student does not get discouraged from the beginning. Many attitudes that the students convey are results of the long time it took them to complete the forms, and the long time which it took them to get the information back.

Many times, they would have made mistakes that required them to return the forms for errors. This delay added to the frustration of the student. Often, there are many delays experienced by students that are not directly related to the financial aid office, but the office of financial aid is the office that experiences all the negative responses from students.

True, there is not enough staff members to accommodate the growing number of students who are receiving financial aid at Texas Southern University. However, the staff does provide top quality services and assistance to all students. Only those students who are late in applying for financial aid are the most dissatisfied with the overall process of financial aid.

Only those students who discover that they cannot receive a loan when the only papers they provided to the financial aid office was the loan application are unhappy with the office of financial aid.

And lenders work very closely with Texas Southern's loan section to ensure that students receive their loan checks on time. Students who do not receive their loans prior to a semester are those whose papers were not processed before a particular semester. Priority deadlines have been established by the office of financial aid.

Aid is just that, an aid. Something designed to assist them in obtaining their education. And as such, they should be a little more interested in all the aspects of the requirements necessary for them to receive the funds they need for their education. Students should pay a little more attention to what they should do and continue to do in order for them to receive the aid they need.

If everyone who is interested in applying for and receiving financial aid at Texas Southern University, took a little time to comply

with the criteria established by the office of financial aid, they would not have the difficulties they experience in receiving the funds they need for their education.

Mr. WASHINGTON. Thank you, Ms. Moshay. Thank you very much. You pointed out some very interesting aspects of what students need to be aware of.

Ms. Blocker?

### STATEMENT OF DORIS BLOCKER, STUDENT, HOUSTON COMMUNITY COLLEGE SYSTEM

Ms. BLOCKER. Good morning, Mr. Washington, Mr. Jefferson and Ms. Stromgo, my chancellor, Dr. Green and Dr. Harding, and to those assembled.

I am Doris Blocker, and I am a 36-year-old single parent. I have three children. And I did not address specifically the financial aid section, but I am going to talk about that. I hope I am not penalized for that.

But I wanted to address all of the concerns that I have being a student at Houston Community College. I am in the nursing program, and I started back in January of 1990. I did not go to college directly after high school because I had a baby and I got married, and I wanted to be a housewife.

But when I did choose to go back to school, it was after my divorce and it was because I needed to make more money and I needed to support my family. And I chose Houston Community College Nursing Program because it was going to take me a shorter time, and time is of the essence to me.

So I got into their 2-year program. I have encountered problems with the Pell Grant in that there was one semester that I thought I would not be able to go back to school because it took me quite a while to get my grant.

The application, I think, is monotonous. It is not very simplified, and I do not consider myself to be stupid. And once I did complete the application and mail it in in all of the time frames that were established—or allowed, rather—I did not get it back in time for registration.

And I had to borrow money from one of my sisters, and that was like pulling teeth, because she is not that generous.

[Laughter.]

But you know, I agonized that semester because I almost did not make it, almost did not fulfill a dream. I am trying to raise three children off of welfare. I am trying to keep my children—or do my little bit—to keep them out of the drug situation.

I am trying in my effort—or, my own little way—to make a difference in Houston, in America, in Texas. I am trying to make a difference. One female.

And I plead to you that perhaps you could look at the grant application and make some changes. I do not know exactly what changes. Or, make some funds available for people like myself. I could have been stopped just because I did not have finances.

The other thing I would like to address is our need at the school. I am a student at the Eastwood Campus and, as Chancellor Green stated, we are terribly limited in space. We have one floor that I

was aware—I was not aware that we were using part of the second level. But there is no space on that third level.

All of the disciplines are there, and you can be overcrowded. Our supplies are functional but limited, as I stated in my written testimony. The school does have a very high State Board licensure, and that was one of the factors that made me consider the school. And also, the fact that many of the students pass the State Board exam.

And the staff is very good, and I think that they have done well in trying to accommodate all of our students in that small area space. So lest I leave this podium without expressing my concern, and that you all would consider it, that the school does need that building.

We really do need it, because I work in the Medical Center. I work at Texas Children. And for what we are doing there, if we would have had larger clinical areas at the Eastwood Campus, I just feel like some of the things that I needed to get at school to prepare me for having gone to the Medical Center would have been great.

They were not there. But we have done without, and we have made it. And I am a graduating—I will be a graduating student this August 23, God willing, and I have made it. And I would like to make it better for some of my classmates and peers that are following me.

Thank you.

[The prepared statement of Doris Blocker follows:]

HONORABLE WILLIAM FORD  
CHAIRMAN, COMMITTEE ON EDUCATION AND LABOR  
U. S. HOUSE OF REPRESENTATIVES  
2451 RAYBURN  
HOUSE OFFICE BUILDING  
WASHINGTON, D.C. 20515



TESTIMONY OF DORIS M. BLOCKER

My name is Doris M. Blocker. I am 36 years of age, a single parent and mother of three children. This is my written testimony as a student enrolled in a community college health careers program. I have enclosed a brief personal history, some difficulties I have encountered since my enrollment at the College, and other concerns that have been expressed to me by students awaiting the opportunity to proceed to the clinical aspects of the ADN curriculum.

I am a 1973 graduate of John H. Reagan High School. After graduation, I chose not to further my education, but instead I chose to be a housewife and mother. I remained unemployed for some eight years after which I decided to take a nurse's aid training course. Upon completion of that class I worked for the City of Houston as a clinic assistant for two years. I later enrolled in school at the Ben Taub Hospital, becoming an Operating Room Technician, and have served in that capacity for the past 12 years. Because of my divorce 5 years ago and the rising cost of living, I chose to return to school in order to increase my income and better provide for my family. I entered the Associate Degree Nursing program weekend classes in January 1990, and will be graduating from that program on August 23, 1991.

My decision to attend Houston Community College System was based on these factors: 1) easy access to the satellite campuses; 2) the high passing rate of graduates on the State Board licensure exam; and 3) the availability of the only weekend nursing program



in the city. Aside from all the positive benefits the Eastwood Health Careers Campus offers, I do find the facility to be less than adequate due to a minimal number of clinical practice areas, equipment that is functional but outdated, and general overcrowdedness. Sharing one floor with several other departments has meant our being crowded into small classrooms for lectures.

Many of the graduates from this nursing program seek jobs in the Texas Medical Center. In keeping with the high standards of the medical center, one of the most renown in the country, I feel the Houston Community College System School of Nursing should be offering its students training with state of art technology, and educational opportunities which lead to advancement and encourage lifelong learning.

My classmates have expressed concerns about the 1) waiting time for entry into clinical classes after they have successfully completed all academic courses; 2) lack of continuing education courses (seminars, workshops, etc.); and 3) insufficient financial assistance necessary to stay in school.

One of the main barriers to my returning to school was the financial aspect. I simply could not afford to pay for tuition, books and supplies, and family expenses. I decided to apply for a Pell Grant and a number of scholarships. Although I met the application deadline for the Pell, an error on the application form caused me not to receive my grant in time for registration. I must say that the application and its processing proved to be quite

complex and perplexing. For example, I never understood the nature of my error on the application form, and the explanation form I received was just as unclear and difficult to understand. It is my opinion that the Pell application process should be simplified and shortened, or that the student be allowed to enroll once eligibility has been determined and the award is being processed.

In conclusion, I find that the college offers me a well designed curriculum, and a faculty and staff who are genuinely dedicated and concerned about students. However, to meet the training needs of the year 2000 the college must address the critical issues of facilities, technology, and student support services.

By the way, next Spring I will enroll for the prerequisite courses needed for the Bachelor of Science in Nursing. This is my long-range personal goal, which will aid me in advancing up the clinical ladder.

Mr. WASHINGTON. Very well stated. Very well stated. And do not despair, your written testimony will appear in the record immediately following your oral testimony.

Ms. BLOCKER. Okay. Thank you.

Mr. WASHINGTON. You are welcome. Mr. Gallegos?

### STATEMENT OF MICHAEL GALLEGOS, STUDENT, HOUSTON COMMUNITY COLLEGE SYSTEM

Mr. GALLEGOS. Ladies and gentlemen in the audience, Congressman Jefferson, Congressman Washington, I have been asked to discuss with you today my experiences as a non-traditional Chicano while in pursuit of my education.

Please understand that after all is said and done, after all the I's have been dotted, after all the T's have been crossed in the Title III Act, there is one thing left. And that is in here. It is heart, as Ms. Blocker so clearly stated to you.

In other words, if there is a situation that is not to your liking, then change it. You may say, "Well, Mr. Gallegos, that is easier said than done." You are right. You are absolutely right. It takes a person with a lot of determination, tenacity, commitment. But ultimately, it comes from within to be able to overcome what, at times, may seem insurmountable odds.

With the support of my family, friends and, yes, the Federal Government, I was one of the fortunate ones who was able to enter and complete my education at the University of Houston in May, 1987.

Yes, my personal opinion is that the difficulty did not come from race, but rather because of a factor that transcends race, color, creed, national origin, sex, or age. It is finance—i.e., poverty.

In retrospect, my family could easily be classified as the working poor—hardly enough money to sustain the family, but too much money to qualify for any type of government assistance. Therefore, my choice was not whether I was going to attend Texas A&M, UT, Texas Tech, Baylor, SMU, but rather would I be able to attend at all.

With that in mind, I am here to inform you that the next 8 years of my life were somewhat difficult for me, but not impossible. I joined the service and took full advantage of the Veterans Educational Assistance Program. After my enlistment, I married. My wife and I then continued on the road to higher education.

I was receiving veterans assistance, drawing unemployment benefits, drawing a complete financial aid packet, to include grants, loans, scholarships, work-study, and I even applied for food stamps.

Did I enjoy or want to go through the lines, the forms, more forms and more forms? Did I want to take on debt? Congressman Washington, debt does not frighten me. Because I know I have something tangible in my hands, and that is a degree. And that is something that will not depreciate and will not lose any value.

Did I want to work full-time while going to school part-time? The answer is no, definitely not. But because of my personal philosophy in life that I mentioned earlier, there was little that I would not do to receive my degree.

I know that you would like for me to elaborate on what I just mentioned, but I feel that there is an issue that is not being ad-

dressed, which is HCC's health careers program itself. Picture this: A young Chicano wants a medical career but cannot afford to attend a large university away from home.

He is informed that Houston Community College has a health careers program, specifically a physical therapy assistant program, of which I currently am a student. This young student decides to go to the Eastwood Campus and take a look for himself.

He is somewhat confused because he notices it is a high school. He just finished high school. Why does he want to go back to a high school? But the security guard informs him that the HCC Health Careers Division is on the second and third floor. Okay, he thinks to himself, I can live with that.

Upon entering the office, he notices there are three separate departments located in one small area. Staff and students are packed together, people are in the hallways because there is not any room in the offices. He is introduced to the director of the physical therapy assistant program, and she is sitting in a five-by-five cubicle.

And mind you, Congressman Washington, Congressman Jefferson, this is the director of the program. This cubicle is jam-packed with an assortment of educational materials. The staff's working area does not fare much better.

Now, the student is given a tour of the lab, and what does he or she see but 35 people trying to learn in approximately 800 square feet with equipment on top of that. It is not a very pleasing sight. He leaves somewhat depressed and decides to work for another year, save up enough money and try to go to another university. We may have lost a student.

I have tried to paint a picture of the facts. But please understand that this in no way indicates the lack of the quality education given to us by the staff. But they have one leg and foot tied behind their back.

As a student currently receiving no financial aid, there are quite a few items that are lacking in the health careers division at Houston Community College, specifically the physical therapy assistant program:

Adequate staffing to meet the needs of the students. Our director is not only a director, but is our teacher, our mentor, our counselor, advisor, disciplinarian, friend, foe and, yes, at times, even our mother. This is an enormous amount of responsibility to handle for one person.

Adequate space. Due to the limitation of space and staff, all of the potential students that could come into the program are not, because the spacing does not permit more than 35 students per year. Adequate spacing also includes storage to be able to place all of the physical therapy assistant program equipment where one is not constantly tripping over it.

Updated equipment. Congressman Jefferson, Congressman Washington, we are in the Houston Medical Center; world renowned, world famous. But yet, our equipment is ancient according to medical standards. How can we expect our staff to do the best possible job with less than adequate equipment?

In closing, I want to stress that the difficulty a student encounters is one of personal finances and not for the lack of opportunity. Let us make Houston Community College a leader where a young

Chicano can be proud that he is a student at Houston Community College, and that Houston Community College is not a younger brother or sister to other, larger universities.

We should be able to stand on our own and not in the shadow of any other institute of higher learning.

Thank you very much.

[The prepared statement of Michael Gallegos follows:]

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CHAIRMAN, COMMITTEE ON EDUCATION AND LABOR  
U.S. HOUSE OF REPRESENTATIVES  
2451 RAYBURN  
HOUSE OFFICE BUILDING  
WASHINGTON, D.C. 20515

TESTIMONY OF MICHAEL GALLEGOS

I have been asked to discuss with you today my experiences as a Chicano/Hispanic while in pursuit of my education. Please understand that my personal philosophy in life is one of "Pulling yourself up by the bootstraps." In other words if there is a situation that is not to your liking , then change it.

You may say/think, well that is easier said than done. You are absolutely right! It takes a person with a lot of determination, tenacity, commitment, but mostly heart, to be able to overcome what at times may seem to be insurmountable odds. With the support of family, friends and yes, the federal government, I was one of the fortunate ones who was able to enter and complete my education. Was it difficult? Yes! My personal opinion is that the difficulty did not come about because of race, but rather because of a factor that does not know race, color, creed, national origin sex, or age. It is FINANCES.

In retrospect, my family could easily be classified as the "working poor" - hardly enough money to sustain the family but too much money to qualify for any type of government assistance. Therefore, my choice wasn't whether I was going to attend Texas A&M UT, Texas Tech, Baylor or SMU, but rather would I be able to attend at all. With that in mind, I am here to inform you that the next eight years were somewhat difficult for my wife and me, but not impossible. I joined the Service and took full advantage of the Veterans Educational Assistant Program. After my enlistment, I married and continued on the road of higher education. I was

receiving my veterans assistance, drawing unemployment benefits, drawing a complete financial aid packet to include grants, loans, scholarships and college work-study.

Did I enjoy or want to go through the lines, form, forms and more forms? Did I want to take on a debt, did I want to work? The answer is no, but because of my personal philosophy in life that I mentioned earlier in this letter, there was very little that I would not do to receive my degree. I know that you would like for me to elaborate on what I just mentioned but I feel that there is an issue that is not being addressed, which is HCCS' Health Careers Program itself.

Picture this, a young Chicano/Hispanic person wants a medical career but cannot afford to attend a large university away from home. He is informed that Houston Community College has a Health Careers Program specifically a Physical Therapy Program. This young student decides to go to the Eastwood Campus and take a look for himself.

First of all, he is confused because this is a high school, not a college but the security guard informs him that HCC Health Careers Division is on the second and third floors. Okay, he thinks to himself, I can live with that. Upon entering the office, he notices that there are three separate departments located in one small area, staff and students are packed in together, tighter than sardines, people are discussing certain things in the hallway because there is no room in the offices. He is introduced to the Director of the Physical Therapy Assistant Program and she is sitting in a 5x5 cubicle that is jammed pack with an assortment of



educational materials. The staff's working areas do not fare much better.

Now, the student is given a tour of the lab and what does he see but 35 people trying to learn in approximately an 800 square foot room. It seems that people are on top of people. Not to mention that in order to make room for these students, equipment is stacked on top of each other. It is not a very pleasing sight. He leaves some-what depressed and decided to work for a year, save up enough money and try to go to another university.

I tried to paint a picture of facts. Please understand that this in no way indicates the lack of quality education given to us by staff, but it sure ties one leg and foot behind their back. As a student, currently receiving no financial aid there are quite a few items that are lacking in HCCS' Health Careers Division, specifically the Physical Therapy Assistant Program:

1. Adequate staffing to meet the needs of the students, our director is not only a director but also our teacher, mentor, counselor, advisor, disciplinarian, friend, foe and at times, our mother. This is an enormous amount of responsibility to handle for one person.

2. Adequate space. Due to the limitation of space and staff, all of the potential students that could come into the program are not because the spacing does not allow for more than 35 students per year. Adequate spacing also includes storage to be able to place all of the Physical Therapy Assistant Program equipment where one is not constantly tripping over each other.

3. Updated equipment. We are in the middle of the World

Famous Houston Medical Center, but yet our equipment is ancient according to medical standards. How can we expect our staff to do the best possible job with less than adequate equipment?

In closing, I want to stress that the difficulty a student encounters is one of personal finances and the prestige of the school. Let us make HCCS a leader on community colleges throughout the county, state and country and not a younger brother/sister to other universities. We should be able to stand on our own and not in the shadow.

Mr. WASHINGTON. Thank you, Mr. Gallegos. Mr. Davis? Mr. Garth Davis.

**STATEMENT OF GARTH DAVIS, PRESIDENT, UNIVERSITY OF TEXAS AT AUSTIN STUDENTS' ASSOCIATION**

Mr. GARTH DAVIS. Mr. Chairman, members of the committee, I would like to sincerely thank you for allowing me to testify before you today.

My name is Garth Davis, and I am the president of the student body at the University of Texas at Austin. I will be speaking on behalf of the students in the financial aid office at UT-Austin in expressing a concern for the financial aid at our institution.

In beginning my testimony, I must assure you that I am well aware of the fiscal crisis our Nation is currently experiencing. Let me also assure you that I am aware of the Federal financial aid for students has risen dramatically since the Higher Education Act was made into law in 1965. Nonetheless, I must contest that Federal aid programs are currently inadequate.

Of course, I am testifying before you today under the populist belief that every citizen should have an equal opportunity to seek higher education. Higher education is an investment in the social and economic well-being of the Nation.

I have heard predictions that claim that by the year 2000, one out of every four jobs will require a higher education degree. If we do not ensure equal access to higher education, then our unemployment rate will undoubtedly increase, which means that even though we saved money in student financial aid, we will lose it in welfare.

Furthermore, many minority groups have been forced into low socioeconomic neighborhoods, and higher education offers the only way out. Equality will never be realized in this Nation unless we accept the fact that all citizens must be given an equal opportunity to attend institutions of higher learning.

Finally, let me add that higher education leads to a more educated work force which, in turn, leads to a more productive society. By increasing accessibility, we increase the number of educated workers, which consequently increases the tax base of the Nation.

At UT-Austin, we do have a very low tuition rate, yet about 50 percent of our student body is participating in some form of financial aid, and recent studies show that we are still falling short—and, in my written testimony this is wrong. We have an unmet need right now of \$22.3 million.

Furthermore, as we speak, State legislators are meeting to propose various tuition hikes. Our financial service director has made some preliminary estimates that show if tuition is raised to \$32, and the TPEG set-aside becomes 20 percent of tuition, we will still experience a net increase in financial aid need of \$831,000—that is unmet need.

If tuition increases to \$40, and TPEG set-aside becomes 20 percent, we will experience an unmet need increase of \$2,398,000. I truly hope that there could be some effort to determine the unmet need of students in the Nation, and appropriations could be increased accordingly.

As I understand it, the amount of aid in the form of loans has increased tremendously, while Federal grants have increased only slightly since 1965. The Federal loan program is commendable; however, I feel that more emphasis should be placed on grants in the future.

Many students have expressed to me reservations about applying for financial aid for fear that they will be paying off debts for many years to come. Debts that would increase even more as they enter graduate school. I do not have figures, but I would guess that the fear of going into debt would prevent many prospective students from pursuing higher education degrees.

Students, especially minority students from low socioeconomic neighborhoods, face a great deal of stress in assimilating into institutions of higher learning, and loans introduce a large burden on those who can least afford it.

In a financial aid perspective paper written by officials on the UT campus, it is suggested that more grants be given, especially to undergraduates. It is also suggested that loan forgiveness be granted to students, both minority and other aid recipients, that enter service professions such as health and education.

Of course, loans will still be a part of Federal financial assistance, but loans should be given after academic success has been proven. Thus, failure will not lead to an indebted dropout, and the number of loan defaults will decrease.

Students on the UT-Austin campus have complained for several years that the financial aid office is inefficient. Many students complain that it is impossible to get through to the office on the phone line, and others complain that it is difficult to arrange an appointment with a staff member.

In addition, a standing committee reported that the office space was too small to house the staff. Problems with the financial aid office became such an issue on campus that they started appearing in campus political campaigns. Recently, the office was moved to a temporary larger site, and we are currently anticipating the building of a new office.

On the surface, these problems with getting financial aid seem to be caused by inadequate services rendered by the university, but I believe much of the problem lies in the difficulty of applying for financial aid. I have heard countless people complain that there are too many forms to fill out, and the forms are too complex to understand.

It is no wonder to me that the phone lines are busy, seeing that there must be countless people calling with questions about the application process. The complexity and the number of forms requires large staffs and office spaces, which is an unnecessary burden on the university.

Furthermore, prospective students who receive financial aid forms could understandably be so turned off that they decide not to attend college. We must remember that a poor student entering college is under a great deal of stress, and the added burden of deciphering the financial aid forms could force the student to reconsider pursuing a higher education degree.

The first step to simplifying the system would be to simplify the need analysis process. All the different financial aid programs have

different procedures for determining eligibility. The institutions, State agencies and Federal Government should work together to determine exactly what information should be required to establish need.

The results can be used differently by different programs, but the simplified criteria could help create one standard form that would alleviate the complexity and help provide more efficient service. Moreover, reapplication for financial aid should be made easier for low income families, so that they do not have to repeat the process yearly.

Finally, I would like to note that many students in high school, and especially in middle school, are unaware that they can receive financial aid. Programs like TRIO should be expanded to adequately inform prospective students that they can pursue higher learning. This would allow them to plan on a college career well in advance of graduation.

In closing, I would like to remind you that higher education is essential to the social and economic well-being of the Nation, and it is therefore essential that we make higher education accessible to all citizens of the USA. Higher education is an investment, not a liability.

[The prepared statement of Garth Davis follows:]

## Testimony By Garth Davis

Members of the committee, I would like to sincerely thank you for allowing me to testify before you today. My name is Garth Davis, and I am the president of the student body at the University of Texas at Austin. I will be speaking on behalf of the students, and the financial aid office of UT-Austin, in expressing a concern for the status of financial aid at our institution.

In preparing my testimony, I have talked with several students who have sought financial assistance. I have also conversed with the director of financial services, Pat Harris, who presented me with several papers regarding the Reauthorization act. In addition, I have reviewed a report of a subcommittee that investigated our financial aid office at UT. Hence, I hope that I will be able to adequately express the concerns of the students, as well as convey suggestions that our financial aid officials have with regards to the reauthorizing of the Higher Education Act of 1965.

In beginning my testimony, I must assure you that I am well aware of the fiscal crisis our nation is currently experiencing. The state of Texas is in a four billion dollar budgetary shortfall, and the national debt is continuously increasing. Let me also assure you that I am aware that federal financial aid for students has risen dramatically since the HEA was made into law in 1965. Nonetheless, I must contest that federal aid programs are currently inadequate.

Of course, I am testifying before you today under the populist belief that every citizen should have an equal opportunity to seek higher education. Higher education is an investment in the social and economic well-being of the nation. I have heard predictions that claim that by the year 2000, one out of every four jobs will require a higher ed. degree. If we do not insure equal access to higher education, then our unemployment rate will undoubtedly increase, which means that even though we saved money in student financial aid, we will lose it in welfare. Furthermore, many minority groups have been forced into low socioeconomic neighborhoods, and higher education offers the only way out. Equality will never be realized in this nation unless we accept the fact that all citizens must be given an equal opportunity to attend institutions of higher learning. Finally, let me add that higher education leads to a more educated work force, which in turn leads to a more productive society. In addition, by increasing accessibility we increase the number of educated workers, which consequently increases the tax base of the nation.

At UT-Austin we do have very low tuition rates, yet about 50% of our student body is participating in some form of financial aid, and recent studies show that we are still falling about two million dollars short of satisfying the need on campus. Furthermore, as we speak, state legislators are meeting to propose various tuition hikes. Our financial services director has made some preliminary estimates that show that if tuition raises to \$32 and TPEG funding becomes 20% of tuition, we will still experience a net financial need increase of \$831,000. If tuition increases to \$40 and TPEG set

aside becomes 20%, need could increase by \$2,398,000. I truly hope that there could be some effort to determine the unmet need of students, and appropriations could be increased accordingly.

As I understand it, the amount of aid in the form of loans has increased tremendously, while federal grants have increased only slightly since 1965. The federal loan program is commendable; however, I feel that more emphasis should be placed on grants in the future. Many students have expressed to me reservations about applying for financial aid for fear that they will be paying off debts for many years to come. Debts that would increase even more as they enter graduate school. I do not have figures, but I would guess that the fear of going into debt would prevent many prospective students from pursuing a higher education degree. Students, especially minority students from low socioeconomic neighborhoods, face a great deal of stress in assimilating into institutions of higher learning, and loans introduce a large burden on those who can least afford it. In a financial aid perspective paper written by officials on the UT campus, it is suggested that more grants be given, especially to undergraduates. It is also suggested that loan forgiveness be granted to minority and other aid recipients that enter services professions such as health and education. Of course, loans will still be a part of federal financial assistance, but loans should be given after academic success has been proven. Thus, failure will not lead to an indebted dropout, and the number of loan defaults will decrease.

Students on the UT-Austin campus have complained for several years that the financial aid office is inefficient. Many students complained that it is impossible to get through to the office on the phone line, and others complained that it is difficult to arrange an appointment with a staff member. In addition, a standing committee reported that the office space was too small to house the staff. Problems with the financial aid office became such an issue on campus that they started appearing in campus political campaigns. Recently, the office was moved to a temporary, larger site; and we are currently anticipating the building of a new office. On the surface, these problems with getting financial aid seem to be caused by inadequate services rendered by the university, but I believe much of the problem lies in the difficulty of applying for financial aid. I have heard countless people complain that there are too many forms to fill out, and the forms are too complex to understand. It is no wonder to me that the phone lines are always busy, seeing that there must be countless people calling with questions about the application process. The complexity and number of forms requires large staffs and office space, which is an unnecessary burden on the university. Furthermore, prospective students who receive financial aid forms could understandably be so turned off that they decide not to attend college. We must remember that a poor student entering college is under a great deal of stress, and the added burden of deciphering the financial aid forms could force the student to reconsider pursuing a higher education degree.

The first step to simplifying the system would be to simplify the need analysis process. All the different financial aid programs have different procedures for determining eligibility. The institutions, state agencies, and federal government should

work together to determine exactly what information should be required to establish need. The results can be used differently by different programs, but the simplified criteria could help create one standard form that would alleviate the complexity, and help provide more efficient service. Moreover, reapplication for financial aid should be made easier for low income families, so that they do not have to repeat the process yearly.

Finally I would like to note that many students in high school, and especially in middle school are unaware that they can receive financial aid. Programs like TRIO should be expanded to adequately inform prospective students that they can pursue higher learning. This would allow them to plan on a college career well in advance of graduation.

In closing, I would like to remind you that higher education is essential to the social and economic well-being of the nation, and it is therefore essential that we make higher education accessible to all the citizens of the USA. Higher education is an investment, not a liability.

I hope I have given you a student perspective on the state of financial aid on the UT campus. I must admit that I was not sure of what I was supposed to testify about, and I have therefore left out a few facts and figures. If you have any questions I will be happy to answer them, and if I do not have the answer I would be happy to find it for you. Once again, thank you very much for allowing me to express my views before you.



**Mr. WASHINGTON.** Thank you very much, Mr. Davis. Mr. Ronnie Davis?

**STATEMENT OF RONNIE J. DAVIS, JR., PRESIDENT, COUNCIL OF STUDENT ORGANIZATIONS, PRAIRIE VIEW A&M UNIVERSITY**

**Mr. RONNIE DAVIS.** Thank you very much, Congressman Washington, Congressman Jefferson. My name is Ronnie Davis. I am the president of the Council of Student Organizations at Prairie View A&M University. I thank you for having this opportunity to come before you to testify at these hearings.

I would like to take this time to come at you from not a different angle, but in the same perspective, but I would like to get to—as my father would say—at the meat and the potatoes of the matter. And that being funding.

One of the major concerns of higher education today is financial aid. Today, students base their decision on whether or not they go to college on how much financial aid they will receive. In my own opinion, I think this is very disturbing.

If any person, regardless of race, creed, or sex with the mental capacity to perform on a college level and would like to attend college, should, and more importantly, should have the necessary funds to get them through college. If not, the Federal Government should provide some type of financial assistance to help the student through college.

And the help should not always be in the way of a loan. This leads me up to a major concern with all students, and that being budget cuts under Title IV of the Higher Education Act.

Title IV has provided many students with the financial assistance needed to attend an institution of higher education. But with the proposed budget cuts, the number of students attending colleges and universities will decline drastically.

Upon my own conclusion, this will lead to a greater number of persons in the lower level work force and/or unemployment. And when I say lower level work force, I am emphasizing those who do not have a college education, or those jobs that would not require a college education.

Either of the two, or both, will cause more problems for the United States as a whole in terms of our economy. In the lower level work force, you have people working sometimes 6 to 7 days a week, and 8 to 12 hours every day. Which means that, basically, they are working at an hourly rate for pennies.

Our economy, basically, how it is run is on disposable income, as called by economists. And that disposable income makes up our economy. Whatever people have left over from after they pay their bills, that is more or less they call their spending money. They put that into our economy—disposable income—which makes our economy flourish that gives it the rotation that it has.

But without that disposable income, our economy is struggling. And in case of unemployment—if we have unemployment, that is real simple; no job no money. No money, struggling economy. That is why we need to make sure that those students who aspire to go to college have the necessary funds to do so.

Now, in terms of financial assistance, a question was raised in me. What can be done to assure that each and every student who qualifies for financial assistance has the necessary funds to attend college?

The answer to that is to increase the maximum amount available through Title IV to enable students who are qualified to receive financial aid. These increases in funding should be through Pell Grants, Supplemental Education Opportunity Grants—that is SEOG—College Work-Study Grants, Perkins Loans, and Student State Incentive Grants.

Over the past decade, the Pell Grant has declined in value by 16 percent in cost of dollars, without cost of living adjustments being made. In contrast to the Pell Grant, student's loans grew throughout the 1980's, from less than 20 percent to over half of all student aid.

The number of loans have quadrupled in that time, and yet the percentage of academically competitive low income students has decreased in the 1980's by over 9 percent.

At Prairie View, a total of 88 percent of the student body are on financial aid. Sixty-eight percent of all students are receiving aid authorized by the Higher Education Act, so if we were to cut that, we would be cutting our own throats.

Half of our students who qualify for financial aid only receive 70 percent of their financial aid. We have twice as much funding available through the Stafford Loan Program as we have through the Pell Grant Programs.

This information tells me, in my own opinion, that one, the Pell Grant has weakened; two, the Pell Grant Program has not put into effect the cost of living adjustments with inflation; and three—and, most importantly—our students are becoming more dependent upon loans.

But what can we do to turn this around? By making the loan programs the last viable means for financial assistance for qualified students. It is ever present that loans are becoming more and more the means of financial resources for students. Consequently, we are having significant loan default rates, particularly at minority institutions that enroll many low income students, such as Prairie View.

Okay. What happens when students are not able to pay their loans? Then we have defaults. Now, you cannot even file bankruptcy. You might have to go to a loan shark, borrow from your sister or your brother. Things like that happen when you are not even paying back your loans; I know.

Mr. Chairperson, Congressman Washington, at PV we have predominantly a majority of black students. We also have—as President Becton says—we have Hispanic, white, Asian and so forth. I do not know every exact one. But we do not always attract the “superior intellects.”

We get the low income students, C, C+ average students—B—whose parents are usually middle class or low income. In my own studies getting my undergraduate degree in 1990, when I first attended Prairie View in 1986, I was on financial aid in which I did not even have to take out a loan.

But between 1986 and the fall of 1990, I owe \$8,700 in loans. Now, I am trying to aspire myself toward graduate school. And I started in the spring; last spring. And between that and by the time I graduate from graduate school, who knows how much I may owe? Which means I am starting out in debt.

And in terms of a young black man in corporate America, starting out in debt is going to hinder me in me getting a job, and aspiring to be what I want to be.

Also, in terms of graduate studies, I feel that there should be more financial assistance for graduate students other than loans, because—as I stated in my own opinion—low income students get these degrees and they go out into the work force, and most of them have to pay back loans.

They do not want to go to graduate school because of the simple fact they know they will have to take out a loan or find another way to pay it back, which they do not have. We have a lot of brilliant minds who come from low income housing, such as Mr. Thurgood Marshall.

He came—his family was not rich. He started out poor, worked his way up, as also with the nomination for the Supreme Court Justice Thomas. He did not start out in a middle class family. He started out—from what I was told—from the backwoods, no bathroom in the house, things of that nature.

But in rounding this all up, in my conclusion, I ask that you allocate more funding toward Pell Grants, less toward loans, and that these grants be adjusted for inflation by cost of living standards.

Also, I ask that you would take into consideration that by increasing emphasis on student loan programs, you are creating a significant financial burden not only on the student, but on the government and banking institutions in administering these loans as well.

Thank you.

[The prepared statement of Ronnie J. Davis, Jr. follows:]

**Testimony**

**On**

**Reauthorization of the Higher Education Act  
Presented to the U.S. House of Representatives  
Subcommittee on Postsecondary Education  
Of The  
Committee on Education and Labor**

**by**

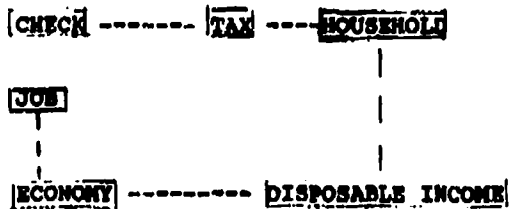
**Ronnie J. Davis Jr.  
President, Council of Student Organizations  
Prairie View A&M University**

Mr. Chairman and members of the Subcommittee on Postsecondary Education, I am glad to have the opportunity to speak to you today about the reauthorization of the Higher Education Act. I am Ronnie J. Davie Jr., President of the Council of Student Organization at Prairie View A&M University, I would like to speak not only on behalf of the student body at Prairie View A&M University, but all students who attend institutions on higher education, whether it be an Ivy league school, or schools such as Prairie View A&M University, one of the 35 Historically Black Colleges and Universities. (HBCUs.)

One of the major concerns of higher education today is financial aid. Today, students base their decision of whether or not they will go to college, on how much financial aid that they will receive. In my own personal opinion, I believe that this is disturbing. If any person, regardless to race, creed, or sex, with the mental capacity to perform on college level, and would like to attend college should, and more importantly have the necessary funds to get them through college. If not, the federal government should provide some type of financial assistance to help that student through college; And that help shouldn't always be in the way of a loan. This leads me up to the major concern of all students, and that being budget-cuts under Title IV of the Higher Education Act.

Title IV has provided many students with the financial assistance needed to attend at institution of higher education. But with the proposed budget cuts, the number of students attending colleges and universities, will decline drastically. Upon my own conclusion, this will lead to a greater number of

persons in the blue collar, fast-food, lower-level hotel-tourist work force (those jobs that do not require a college education) and/or unemployment. Either of the two or both, will cause more problems for the United States. Those in the blue collar, low-level hotel-tourist work force, work long hours; 6 sometimes 7 days a week, are paid on an hourly rate. After they're attempted to meet their monthly expenses, they have very little money left. Our economy, as shown below, thrives off these "left over funds" known as "disposable income".



But without any disposable income one cannot spend, and without spending by consumers, results will show a struggling economy. My understanding of unemployment is clear and simple: No Job...No Money! which puts those unemployed looking toward the federal government for help. Is this what we really want to happen? I would hope not. That is why I feel it necessary for us in the academic world to do something to control this problem. We need to insure persons who aspire to attend any institution of higher education, has the financial resources to do so. That is why Title IV is a major concern to every student across the nation.

what can be done to assure that each and every student who qualifies for financial assistance, has the necessary funds to attend college?

1. Increase the maximum amounts available through Title IV to enable students who are qualified to receive financial aid. These increases in funding should come through Pell Grants, Supplemental Education Opportunity Grants, College Work Study Grants, Perkins Loans, and State Student Incentive Grants. Over the past decade the Pell Grant has declined in value by 16% in constant dollars, without cost-of-living adjustments being made. In contrast to the decline in Pell Grants, students loans grew throughout the 80's from less than 20% to over half of all student aid. The number of loans given have quadrupled in that time, and yet the percentage of academically competitive, low-income students has decreased in the 80's by over 9%. (Charles Saunders, ACE Recommendations June 25, 1990.)

**At Prairie View A&M University:**

- A total of 88% of the students are on financial aid.
- 68% of all students are receiving aid authorized by the Higher Education Act.
- 20% receive aid from other sources.
- Half of our students who qualify for financial aid, only receive 70% of their financial need.
- We have twice as much funding available through the Stafford Loan Program as we have through the Pell Grant Programs.

2. Take into account the financial assets of students' families as well as their annual income when looking at qualifications for financial aid. Low-income families have fewer overall financial resources to draw upon than middle-income families. If this distinction is not made, there is a danger of increasing the number of middle-income student grants at the expense of grants for poorer students.

This information tells us that:

- The Pell Grant has weakened.
- The Pell Grant Program hasn't put into effect the cost-of-living adjustment.
- Our students are becoming more dependent upon Stafford Loans.

But how can we turn this around?

1. Make the Loan Programs the last viable means for financial assistance for qualified students. It is ever present that loans are becoming more and more the means of financial resources for students. Consequently, we are having significant loan default rates, particularly at minority institutions that enroll many low-income students. (Students borrow over \$10 billion each year, and in 1989, loan defaults constituted over \$6 billion.) After graduation, most students aren't able to find a job quickly or one that pays good. When this happens, students aren't able to pay back their loans. In other instances, newly wed couples that



recently graduated, after both took out loans during college, find it hard or are not able to pay the loans back. They're not able to because of the fact that they're just starting out, along with trying to survive day to day living expenditures. The burden is especially difficult for minorities from low-income backgrounds, who obviously have a harder time gaining employment to repay these loans. What we need to do is put more funding into Pell Grants and less into loans.

2. Make loan repayment options more flexible If the interest payments on the loans were lower it would enable more students to repay the loans. Also, in the event that students aren't able to pay back their loans, some other viable option should be looked at such as, volunteer services in a federally funded program.

In conclusion, I ask that you allocate more funding toward Pell Grants, and that these grants be adjusted for inflation by cost-of-living standards. Also, I ask that you would take into consideration that by increasing emphasis on student loan programs, you are creating a significant financial burden not only on the student, but on the government and banking institutions in administering these loans as well.

Mr. WASHINGTON. Thank you very much, Mr. Davis. Thank all of you again for your testimony. Congressman Jefferson has comments and questions.

Mr. JEFFERSON. Well, frankly, you have done a fine job, coming from different starting points, in getting information over to this committee, and I really appreciate it. Each of you has had an experience, while it is similar, it is really dissimilar in many respects.

And it is this kind of diverse expression of opinion that is most helpful to me. And I think, speaking for the rest of us who are trying to examine these issues, for all of us.

Congressman Washington has said it, I suppose, as well as it needs to be said that our work is not for the universities, for the teachers, for the librarians and the rest, as such. It is principally to assist those who are aspiring for an education to attain one, and to give them the support they need to be successful.

And so it is for the students that these enactments are proposed and carried forth. And this whole business about reauthorizing the Higher Education Act ought to be aimed at how do we make it work better for each of you.

What runs as a common thread through your testimony is this issue of cost. The cost of higher education is going up and up and up. And it further strains the issue of financial aid. If the aid kept up with the cost, it would be helpful, but we are learning now that costs are going to go up even more.

And as we look within the context of what is being proposed by the administration, they want to have what they call a partnership for certain programs between the universities and the Federal Government; having the States put up more money. When you know, as a matter of fact, that if the State does that, and the State needs more money, it comes out of the pockets of students and parents in the form of tuition.

And so, it is a shell game, really. And it is a very disturbing problem because, in the end—as Mr. Davis and Mr. Davis have pointed out—we are going to end up with fewer people having access to college, and with people making less than the career choices they want to make, and even perhaps deferring or not going to graduate school, if they should want to, because of a concern over indebtedness.

So I just want to not ask questions but to thank you for what you have done for this community and tell you how important your work is to us today, and how helpful it has been to me. So I would like to thank each of you for what you are contributing this morning.

Mr. WASHINGTON. There is nothing to be added to that eloquent statement. Thank you all very much for your testimony. May we encourage you to continue your pursuits of education directly and indirectly, and also to encourage the many young people you know that are out there from age 50 to age 18 to get involved in education and do all that they can.

Let them know that help is on the way. Thank you very much for your time.

I would like to call the third panel up so that they can take their seats and be prepared to testify.

The subcommittee will come to order. Without objection, the prepared statement of Dr. Herbert Hayre, National Education Association, will be made a part of the record.

And I am told by my dear friend and counsel that we should at this time also introduce into the record the statement of the Honorable Wilhelmina Delco, Chairman of the House Committee on Public Education and Speaker Pro Tem of the Texas House of Representatives, and that of Mr. Jimmy Parker, Texas Association of Student Financial Aid Administrators.

These matters are included in the record without objection. Dr. Hayre?

**STATEMENT OF HERBERT HAYRE, NATIONAL EDUCATION ASSOCIATION; PRESIDENT, TEXAS FACULTY ASSOCIATION; AND PROFESSOR OF ELECTRICAL ENGINEERING, UNIVERSITY OF HOUSTON**

Mr. HAYRE. Mr. Chairman, it is my pleasure to be here, and I appreciate your inviting us. I am a professor of electrical engineering at the University of Houston, the president of Texas Faculty Association, and member of the National Education Association Council on Higher Education.

I appreciate this opportunity to comment on an issue of tremendous importance to the future of our Nation: the reauthorization of the Higher Education Act. The Higher Education Act is the cornerstone of our national postsecondary education policy.

It helps extend education opportunities to millions of young Americans. It helps keep America competitive, and helps improve the quality of life for all Americans.

My experience on the Hill shows that there at least a dozen committees trying to get competitiveness on the go, and it is quite amazing when it comes to education, which is the basic building block, we are wondering how to divvy up maybe less than a billion dollars. It is somewhat shocking.

Over the 20th century, the pace of change has accelerated. Technological achievements, scientific discoveries, and social changes have transformed the world, and nothing suggests that the pace of change will abate in the near future.

On the contrary, as we enter the 21st century it appears that dramatic technological, political and social changes will take place. America and Americans cannot nor do we wish to arrest or slow this transformation.

We must take steps now to assure that we are active participants rather than observers. A manufacturing society rather than a service society. A Nation which can compete with any segment in the world.

Our counterparts and contemporaries around the world are not standing by waiting for us to set the direction of intellectual endeavor, technological innovation, or economic development. Indeed, our strongest allies are also our competitors. The United States must adapt to this environment.

We must develop the means to increase our economic vitality and enhance participation in our democratic institutions, and work

shoulder to shoulder with our longstanding friends, emerging democracies, and developing nations to address the challenges ahead.

Federal involvement in postsecondary education helps make that possible. In fact, I must say that the National Science Foundation is spending roughly \$100 million on promoting math and science among minority and women.

If this program—the way administration proposes—is curtailed, would negate that. The Academy of Sciences says that we are going to be half a million people short professionally, and here we are not able even to fund the program at the 1980 level.

And in Texas, we have been buffeted by a series of economic challenges, a decline of both energy and agricultural sectors of the economy, and the collapse of the savings and loan industry, and the effect of national recession.

In addition, the Court-ordered restructuring of the school finance formula for the elementary and secondary schools has exacerbated the economic pressures that determine what resources are available for postsecondary education.

Tuition at State-supported postsecondary institutions are expected to double by the fall of 1991, as we read in the papers over the weekend, intensifying pressure on many postsecondary students and prospective students, particularly those from low and middle income families.

Texas and its people are leaders in the U.S. today. Our State has many nationally and world-renowned postsecondary educational institutions, including the University of Houston. And of course, we are proud of the Texas Southern University.

Congressman Washington, you and Mickey Leland were the two—not only the two, but one of the very many—leaders who were produced on this campus. And if this aid was cut, I would not be a bit surprised if most of the students at Texas Southern University used this aid because of economic necessity.

Therefore, we appreciate the role that the Federal Government has played in making these achievements possible. Without Federal student financial aid, and other postsecondary programs, we would be hard pressed to maintain these accomplishments, and yet cannot, as a State or as a Nation, afford to stand still. And this will be apparent when I present the numbers in a minute.

We must continue to build and to grow in order to survive. Were it not for college work study programs, some 1,000 students at the University of Houston alone could not afford to enroll.

And I was impressed with our forefathers who taught us the value of work. Here, we are telling the students that there shall be no more work study program. This runs contrary to the very basic American apple pie. It makes absolutely no sense.

Instead of cutting work study as the administration proposes, we hope that the committee will recommend to double it. Such a circumstance would be devastating for our economy and our individual ambitions that would be denied. Of those 1,000 students I mentioned, some 50 percent are minorities—black and Hispanic and Native Americans. And 42 percent are single parents. Where are we going if we cancel these programs?

By assisting students from low income families achieve their dreams, what we do more than improve the economic standing of

individuals, we enrich the lives of every American. Even though Federal student financial aid has helped reduce barriers to postsecondary education over the past two decades and more, family income is still a primary determinant in the postsecondary enrollment.

Youth from families with incomes of more than \$50,000 are four times more likely to attend college than those from families with incomes below \$15,000. This should not happen in America.

Moreover, despite dramatic increased in high school completion rates for blacks and Hispanics over the past 20 years, only 31 percent of blacks from 18 to 24 years age group, and only 29 percent of Hispanics in that age group are enrolled in the postsecondary education, compared to 40 percent of the white youth.

These trends have tremendous consequences for both future economic attainment and social justice. Federal student aid programs have fallen far short of the need. The average Federal student aid award fell—and, I underline the word tell—from almost 80 percent of the average cost of attendance by the mid 1970's to 60 percent in 1980-81, and to 40 percent in 1989. This is incredible. In other words, something is out of whack.

Moreover, many young people forego postsecondary education in order to avoid beginning their work lives with an insurmountable debt. You heard from the students, and I meet them every day. They leave universities with something like \$10,000 minimum debt before they get out. And if they are in professional schools, they are up to \$23-, \$25-, \$30,000 debt. So it is quite a burden.

Total Federal postsecondary student aid declined by 3 percent in constant dollars between 1980 and 1989. I repeat, total Federal postsecondary aid declined by 3 percent in constant dollars between 1980 and 1989. Absolutely unacceptable.

More alarming, total spending for postsecondary education plummeted by more than 24 percent over the decade of the 1980's, after accounting for inflation. Fully funding Pell Grants would cost some \$7.6 billion in the fiscal year 1992, an increase of \$2.2 billion over the fiscal year 1991.

Restoring funds to Supplemental Educational Opportunity Grants would require an increase of \$170 million over the fiscal year 1991 spending level. Bringing college work study back to the 1980 level—mind you, back to the 1980 level—would require an increase of \$359 million.

I added these three figures up. They come out to less than the cost of eight B-52s, which do not work. And they are not defensible. I am a radar man, so I can tell you that.

Congress must authorize and appropriate funds sufficient to assure that no qualified student is denied access to postsecondary education. The surest way to do that is to establish Pell Grants as a Federal entitlement program, so we cannot play budget games with it every 2, 3 years with every different President.

Increase the maximum allowable Pell Grant, and raise to 75 percent the percentage of allowable costs Pell Grants can cover. At the same time, middle income families are increasingly hard-pressed to meet college costs. Costs of attendance at a 4-year public college rose five times as much as the median family income.

Let me say that again. Costs of attendance at a 4-year public college rose five times as much as the median family income between 1980 and 1988. And yet, these programs were dropped. Private universities and college costs rose more than six and a-half times as much.

The National Education Association urges Congress to eliminate the assessment of home or farm equity in the calculation of the expected family contributions, and allow those from families with an income up to \$45,000 to receive some Pell Grant assistance.

I must say, at this time, the administration's proposal of \$10,000 income, if you do a little simple calculation, comes out to be a \$5 an hour wage for one family member. For a single parent family, which we have 26 million of them, they cannot pay the child care and have a full-time job and ever improve their skills, it is a dead-end situation.

I think somebody in the office of budget management is not aware of the real world outside. The resources must also be directed towards recruitment, Federal programs designed to help make students aware of postsecondary financial aid, and provide identification, counseling and tutoring programs to help assure that individuals make full use of their abilities.

The NEA believes every effort should be made to identify and assist students to assure that they are prepared and able to attend college. In addition, Congress should take into account the needs of part-time students, a very growing segment of our population, adults, single parents, and others in the developmental Federal student aid and related programs.

The process for applying for Federal postsecondary student aid is needlessly complicated and redundant. It makes no sense to require families who have proven that they are poor to do so repeatedly. Incidentally, I tried to help this student fill a form out. It took me literally 2½ hours to figure out what in the world they were asking.

There is a booklet ten pages thick. It is worse than the IRS. The procedures may be themselves discouraging many families from pursuing financial aid and denying students academic opportunity. We recommend the adoption of a single need analysis system—I hope one page—rather than a four-page summary.

And the elimination of the fee for the application. In addition, we urge Congress to allow students from families receiving food stamps or aid to families with dependent children to be considered automatically eligible for the maximum Pell Grant and other student aid, and create a simplified procedure for reapplication.

Default rates for the Federal student loans are totally unacceptable. I do not want to go into the details, but you know fully well where they are coming from. It is not happening in the major institutions of higher learning. Because the amounts students are required to borrow have become excessive.

Appropriate levels of aid and grant for low income students would help lead to fewer defaults. And more stringent standards must be established to determine institutional eligibility for Title IV programs.

N.E.A. has made a number of detailed recommendations about the administration of the Stafford Loan Program in comments sub-



mitted at the request of the subcommittee, which I think are on your records there. I refer you to those recommendations and urge you to consider them for adoption.

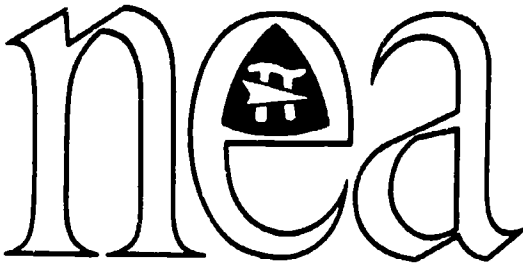
Federal support in postsecondary education, involvement assistance and resources play an integral part in our ability to address the challenges as a country. NEA is committed to assist you in your critical task of shaping a Higher Education Act reauthorization that will strengthen our Nation's ability to meet the future.

I want to add just one more comment. If this great Nation of ours can spend \$65 billion to liberate Kuwait, we definitely need to liberate about 40 percent of our population with better education. It should be the same priority. It is about time that we paid attention at home as well.

Thank you.

[The prepared statements of Herbert Hayre, Hon. Wilhelmina Delco and Jimmy Parker follow:]

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**TESTIMONY  
OF THE  
NATIONAL EDUCATION ASSOCIATION  
ON  
POSTSECONDARY STUDENT AID**

**PRESENTED TO THE  
POSTSECONDARY EDUCATION SUBCOMMITTEE  
OF THE  
COMMITTEE ON EDUCATION AND LABOR  
U.S. HOUSE OF REPRESENTATIVES**

**PRESENTED BY  
HARB HAYRE  
PROFESSOR OF ELECTRICAL ENGINEERING  
UNIVERSITY OF HOUSTON**

**JULY 22, 1991**

**HOUSTON, TEXAS**



**Mr. Chairman and Members of the Subcommittee:**

**I am Harb Hayre, a professor of electrical engineering at the University of Houston, president of the Texas Faculty Association, and a member of the National Education Association's Committee on Higher Education. I appreciate this opportunity to comment, on behalf of NEA, on an issue of tremendous importance to the future of our nation: the reauthorization of the Higher Education Act.**

**The Higher Education Act is the cornerstone of our national postsecondary education policy. Included in the Act are programs that extend educational opportunities to millions of young Americans and programs that help keep America competitive in technological development and every other aspect of intellectual endeavor. The Act includes programs that help improve the quality of teacher preparation and professional development and programs that support scholarly research that improves the quality of life for all Americans.**

### **Student Financial Aid**

**Among the most critical issues involved in this proposed reauthorization are those related to postsecondary student aid. Even though federal student financial aid has helped reduce barriers to postsecondary education over the past two decades and more, much more needs to be done.**

**Family income is still a primary determinant in postsecondary enrollment. Youths between the ages of 18 and 24 from families with incomes of more than \$50,000 are four times**

more likely to attend college than those from families with incomes below \$15,000. Moreover, despite dramatic increases in high school completion rates for Blacks and Hispanics over the past 20 years, only 31 percent of Black 18- to 24-year-olds and 29 percent of Hispanic youths are enrolled in postsecondary education, compared to almost 40 percent of white youth. These trends have tremendous consequences for both future economic attainment and social justice in the U.S.

Federal postsecondary student aid, including Pell Grants, Supplemental Education Opportunity Grants, College Work-Study, and Stafford Loans play an essential role in the vitality of our postsecondary institutions and the access to economic opportunity for American youth. Pell Grants alone represent some 15 percent of the tuition income of the nation's colleges and universities. And the opportunity to attend postsecondary schools has vastly expanded the nation's vital intellectual and human resources.

And yet, federal student aid programs have fallen far short of the needs. The average federal student aid award fell from almost 80 percent of the average costs of attendance by the mid-1970s to around 60 percent in 1980-81. By 1989-90, the average financial aid package paid less than 40 percent of the average costs of attendance at a college or university. Moreover, during the 1980s, the balance of the average student aid package shifted dramatically from 60 percent in grants and 40 percent in loans at the beginning of the 1980s, to 40 percent in grants and 60 percent in loans by the close of the decade. As a result, many young

people have chosen to forgo postsecondary education in order to avoid beginning their working lives with a seemingly insurmountable personal debt.

According to the College Board, total federal postsecondary student aid declined by 3 percent in constant dollars between 1980 and 1989. More alarming is the recent Department of Education report which found that total spending for postsecondary education plummeted by more than 24 percent over the decade of the 1980s, after accounting for inflation.

A recent report by NEA projects what it would cost to fund Pell Grants for all eligible students at the FY91 maximum allowable grant (\$2,400), as well as to restore Supplemental Educational Opportunity Grants and College Work-Study to the FY1980 levels, after accounting for inflation. Fully funding Pell Grants would cost some \$7.6 billion in FY92, an increase of \$2.2 billion over the FY91 level. Restoring funds to funding SEOG would require an increase of \$170 million over the FY91 spending level of \$540 million. Bringing College-Work-Study back to its 1980 level would require an increase of \$359 million above the FY91 appropriation of \$595 million.

NEA urges the Congress to authorize and appropriate funds sufficient to assure that no qualified student is denied access to postsecondary education on the basis of financial need and to include in this reauthorization provisions to:

- o establish Pell Grants as a federal entitlement program;

- o Increase the maximum allowable Pell Grant to \$4,300 in Fiscal Year 1992, with a \$200 a year increase in each subsequent year;
- o raise to 75 percent the percentage of allowable costs Pell Grants can cover; and
- o set more realistic cost-of-attendance figures for room and board.

#### **Assistance for Middle Class Families**

While the focus of federal student aid programs must be on helping low-income students, middle-income families are increasingly hard pressed to meet college costs. According to the College Board, costs of attendance at a four-year public college rose five times as much as median family income between 1980 and 1988. Private school costs rose more than six and one-half times as much over the same period.

To address the needs of students from middle-income families, NEA urges Congress to include in the reauthorization provisions to:

- o eliminate the assessment of home or farm equity in the calculation of expected family contributions for families with incomes below \$40,000;
- o increase the Pell Grant awards that moderate-income students receive and allow those from families with incomes up to \$45,000 to receive some Pell Grant assistance; and

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- o provide modest increases in Stafford Loans, Supplemental Loans for Students (SLS), and Parent Loans for Undergraduate Students (PLUS).

**Increasing Early Intervention Efforts**

As Americans read the newspaper and see on television alarming reports on the rise in the costs of postsecondary education, too many students see college as a dream far beyond their reach. As a result, many students abandon the idea of attending college or pursuing a college preparatory track as early as their middle school years.

A number of programs included in the Higher Education Act are designed to help make students aware of postsecondary financial aid and provide identification, counseling, and tutoring programs to help keep the dream alive. These programs are essential to assure that our nation makes full use of its human resources and that individuals make full use of their intellectual abilities.

NEA believes these programs, most targeted toward particular student populations, should be extended and expanded. But in addition, we believe every effort should be made to identify and assist students to assure they are prepared and able to attend college.

NEA recommends the Higher Education Act include provisions to:

- o establish statewide early intervention programs;

- o expand the Special Programs for Students from Disadvantaged Backgrounds (TRIO) to double the number of students served and to involve postsecondary faculty in mentoring programs;
- o establish a Student Counseling and Assistance Network (SCAN) that would provide training for school counselors, create a national database on financial aid options, and publicize financial aid programs;
- o create a demonstration program similar to the "I Have A Dream Foundation" which guarantees tuition assistance and helps assure students are qualified to be accepted in postsecondary institutions; and
- o direct a portion of College Work-Study funds be used to support mentoring programs for disadvantaged youth.

### **Ensuring Nontraditional Students Are Served**

Increasingly, colleges and universities include significant numbers of "nontraditional" students, those who have chosen to pursue postsecondary education as adults or who elected to enhance their knowledge and skills in order to be more successful in their work or to change careers entirely. Many of the existing federal financial aid programs were designed to assist students who enroll just after high school and complete their undergraduate education in four years.

NEA believes the Higher Education Act should take into account the growing number of "nontraditional" students,

**Including part-time students, adults, single parents, and others.**

**We recommend the Act include provisions to:**

- o maintain Pell Grant eligibility for less than half-time students;**
- o increase the allowance for child care costs in determination of a Pell Grant to \$3,000 per dependent;**
- o modify the eligibility formula to take into account such factors as welfare income, precipitous drop in incomes for those enrolled in school compared to previous years, and assuring that student aid is not counted as income in eligibility standards for food stamps, welfare, or other federal assistance programs; and**
- c require that institutions provide at least 10 percent of their campus-based aid funds for part-time students;**

### **Simplifying the Financial Aid Process**

**NEA believes that the current process for applying for federal postsecondary student aid is intrinsically daunting and needlessly complicated and redundant. At present, students must fill out a multiplicity of complicated forms each year that they apply. It makes no sense to require families who have proven they are poor to do so repeatedly. The complicated nature of these procedures may, by themselves, discourage families from pursuing financial aid and deny students academic opportunity.**

**We recommend the adoption of a single financial aid needs analysis system and the elimination of the fee structure for**

**application. In addition, we urge Congress to include provisions in the reauthorization to:**

- o allow students from families receiving food stamps or Aid to Families with Dependent Children to be considered automatically eligible for the maximum Pell Grant and other student aid;**
- o create a simplified procedure for reapplication after initial determination of eligibility; and**
- o clarify the definition of independent students.**

#### **Reducing Loan Defaults**

**Without question, default rates for federal student loans are totally unacceptable. And yet, default rates have become so high precisely because the amounts students are required to borrow have become excessive. A recent study by the U.S. Department of Education revealed that between 1977 and 1986 the median debt levels of college graduates increased by 33 percent in constant dollars. Appropriate levels of aid in grants for low-income students would help lead to fewer defaults. And more stringent standards must be established to determine institutional eligibility for Title IV programs.**

**Congress must be careful, however, in addressing the default rate to assure that it does not limit access to postsecondary education for any qualified student.**



**NEA has made a number of detailed recommendations about the administration of the Stafford Loan program in comments submitted at the request of the Subcommittee. I refer you to those recommendations, and urge you to consider them for adoption.**

### **Impact on Texas**

**The State of Texas has been buffeted by a series of economic challenges: the decline of both energy and agricultural sectors of the economy, the collapse of the savings and loans industry, and the effects of the national recession. In addition, the court-ordered restructuring of the school finance formula for the elementary and secondary schools has exacerbated economic pressures that determine what resources are available for postsecondary education.**

**Tuition at state-support postsecondary institutions are expected to double by the fall of 1991, intensifying pressures on many postsecondary students, and prospective students, particularly those from low- and middle-income families.**

**Texas and its people are leaders in the U.S. today. Our state has many nationally and world-renowned postsecondary education institutions, including the University of Houston. In addition, we have an extensive network of community colleges throughout the state that make educational opportunities accessible to thousands of Texans from all walks of life.**

**We appreciate the role the federal government has played in making these achievements possible. Without federal student financial aid programs, as well as programs to strengthen**

**institutional vitality, we would be hard-pressed to maintain these accomplishments. And yet, we cannot, as a state or as a nation, afford to stand still. We must continue to build and to grow in order to survive.**

**Were it not for College Work-Study programs, some 1,000 students at the University of Houston alone could not afford to enroll. Such a circumstance would be devastating for our economy and for the individual ambitions that would be denied. Of those 1,000 students, some 50 percent are minorities: Black, Hispanic, and Native American; some 42 percent are single parents.**

**College Work-Study is but one of the essential programs. Pell Grants, Supplemental Education Opportunity Grants, State Student Incentive Grants, and the Stafford Loan Program provide a network of support and assistance that enhance our nation's ability to remain competitive in a world economy. And by assisting students from low-income families achieve their dreams, we do more than improve the economic standing of individual families. We enrich the lives of every American.**

### **Conclusion**

**Over the 20th century, even in our lifetimes, the pace of change has accelerated. Technological achievements, scientific discoveries, and social changes have transformed the world, and innovations in communications and transportation have brought us ever closer together. At present, nothing suggests that the pace of change, innovation, and development will abate in the**

development will abate in the near future. On the contrary, as we enter the 21st century, it appears that dramatic technological, political, and social changes will continue.

Americans cannot, nor do we wish to arrest or slow this transformation. But we must be careful that we continue to be active participants, rather than observers.

Our counterparts and contemporaries around the world are not standing by waiting for us to set the direction of intellectual endeavor, technological innovation, or economic development. Indeed, our strongest allies are also our competitors. The United States must adapt to this environment. We must develop the means to increase our economic vitality and enhance participation in our democratic institutions, and work shoulder to shoulder with our longstanding friends, emerging democracies, and developing nations to address the challenges that face us all.

Federal support in postsecondary education -- involvement, assistance, and resources -- play an integral part in our ability to address those challenges. NEA is committed to assist you in your critical task of shaping a Higher Education Act reauthorization that will strengthen our nation's ability to meet the future.

Thank you.

TESTIMONY OF WILHELMINA R. DELCO  
BEFORE THE HOUSE SUBCOMMITTEE ON POSTSECONDARY EDUCATION  
HOUSTON, TEXAS  
JULY 22, 1991

INTRODUCTION: Subsequent to an 18-month study of the proprietary school industry in Texas, the Joint Interim Committee on Proprietary Schools submitted, to the 72nd Legislature, a 300-page report, and a 165-page bill to address the recommendations in the report. Both of those documents are submitted to you today to supplement this oral presentation. In the course of our deliberations as a Committee, which included eight public hearings, visits to fourteen proprietary schools in four regions of the state, and a review of over 200 written documents on the subject of proprietary school regulation, the Committee focused on three major components for success in postsecondary education, "access, achievement, and accountability". We evaluated the responsibility of institutions to provide access to education; we traced the subsequent achievement of those trained to garner productive employment; and we examined the accountability of schools in their management capacity and the status of their financial apparatus, and of governing bodies in their oversight and regulatory functions. The thrust of the report and resulting legislation is two-fold: one, to implement measures to reduce the spiraling default rates germane to the guaranteed student loan program; and second, to augment the consumer protection and program quality

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responsibilities of proprietary schools and licensing and regulatory agencies.

**DEFAULT REDUCTION:** Most of the recommendations made in the report and resulting legislation are appropriate steps toward reducing default rates and alleviating the burden for students, taxpayers, guaranty agencies, and the money markets serving the proprietary school industry. Those recommendations relating to reducing defaults on guaranteed student loans include:

(1) establishing a default "risk-pool" whereby schools will share the cost of defaulted loans, by contributing to a fund designed to supplement guaranty agency loan loss reserves;

(2) creating a School Fund Advisory Board with broad powers to set fees and audit regulatory agencies, hear appeals and arbitrate disputes, and monitor default rates and institute prevention plans according to the reduction measures in CFR 668 and 692;

(3) funding a mechanism exclusively dedicated to teachouts and tuition protection/recovery, and financed by school assessments;

(4) prohibiting the use of fund monies for teachouts by owners of the closed schools;

(5) enforcing tighter refund policies and imposing criminal penalties for failure to comply;

(6) prioritizing refunds to the repayment of guaranteed student loans and government aid before other disbursements;

(7) imposing appropriate restrictions on loan eligibility certification;

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(8) requiring comprehensive and frequent loan counseling to student borrowers;

(9) augmenting financial stability, solvency, and reporting requirements for proprietary school operations;

(10) adopting comprehensive civil and criminal penalty and cause for action provisions.

CONSUMER PROTECTION: Those recommendations designed to provide consumer protection and enhanced program quality include:

(1) requirements for extensive pre-enrollment counseling and consumer information dissemination;

(2) mandating implementation of grievance procedures and arbitration mechanisms;

(3) requirements for cost comparison, license qualification, wage and salary, employment and placement, and market survey and industry input disclosures regarding the applicability of program offerings;

(4) truth in advertising clauses and restrictions on recruitment practices and commissioned salespersons;

(5) quality control measures regarding school personnel, course length and curriculum content;

(6) program enhancements including requirements for basic education components, clarification of degrees, and articulation agreements;

(7) minimum skills entrance requirements and enhanced remediation efforts on behalf of ability-to-benefit students.

(8) improved rules regarding facilities, equipment, enrollment policies, and other provisions and upgrades identified

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as necessary to ensure program quality, operational soundness, and administrative competence in proprietary schools and regulatory agencies.

CONCLUSION: Despite support from the higher education authorities, the lending markets, the business community, and the better proprietary schools for the Delco bill, (House Bill 2861/C.S.S.B. 926), during the last Regular Session of the Texas Legislature, the bill did not reach the House floor in time for debate, passage, and implementation. A second effort has been launched whereby conscientious Texans who are truly interested in improving the educational environment in the state, who are dedicated to the pursuit of quality vocational/technical training for the future workforce in Texas, and who are frustrated by the tax burden imposed by defaulted loans, will support this meaningful and comprehensive vehicle for proprietary school regulation. The overwhelming need, and the goal and objective of the Delco legislation, is to provide greater consumer protection and a higher quality of education for students, to reduce taxpayer exposure resulting from high default rates, and to expunge those proprietary school operators who have failed in their fiduciary responsibility to use Title IV funds in a prudent manner. The legislation has been voted out of committee as an amendment to the Omnibus Education Bill; and it will be considered on the floor of the Texas House of Representatives tomorrow.

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**STATEMENT  
TO THE  
SUBCOMMITTEE ON POSTSECONDARY EDUCATION  
COMMITTEE ON EDUCATION AND LABOR  
UNITED STATES HOUSE OF REPRESENTATIVES**

**July 22, 1991**

**BY**

**Jimmy Parker  
TASFAA President**

**On behalf of  
The Texas Association of Student Financial Aid Administrators**



The Texas Association of Student Financial Aid Administrators (TASFAA) has considered issues related to Reauthorization of the Higher Education Act as it pertains to Title IV Student Financial Assistance. TASFAA is an organization composed of approximately 260 member institutions and over 900 individuals. Members of a TASFAA Reauthorization Task Force have discussed our areas of concern and prepared a series of recommendations which have been adopted by the TASFAA Board of Directors.

We believe the delivery system as it now stands is working and providing funds to those students who need additional financial help for their cost of education. However, we do see some areas for improvement which would allow for a more efficient delivery of student aid dollars. We do not believe this could be accomplished by moving the current system to a form of block grant allocation or a move away from the State Student Incentive Grant (SSIG). We also believe the current concern regarding loan defaults could be managed if more emphasis were put on awarding grant dollars than on loans. Under tight budget constraints we understand this may not be popular, but we believe in the long run the savings would be greater than continuing to bombard everyone with legislation aimed at default prevention that makes the system more confusing and cumbersome for students and more costly to administer.

The following represents our recommendations on the reauthorization process. If I may provide any further clarification on the issues we have raised, please contact me at Angelo State University, 2601 W. Avenue N, San Angelo, TX 76909.

#### **TASFAA Reauthorization Recommendations**

#### **I. PART A: Grants to Students**

##### **A. Subpart 1: Basic Educational Opportunity Grant (Pell Grants)**

1. We recommend the elimination of the Pell Grant Student Aid Report (SAR). (Section 411(f))  
However, we also recommend all students who apply for federal financial assistance be provided an output/correction document.
2. We recommend the use of one formula to determine a student's eligibility for Pell Grant and other Title IV assistance. (Section 411)

##### **B. Subpart 2: Supplemental Educational Opportunity Grant (SEOG)**

We recommend retaining the current institutional matching requirement. (Section 413C(a))

**II. PART B LOANS: Stafford, SLS, PLUS**

- A. We recommend the establishment and appropriation of an institutional administrative allowance to help offset the cost of administering loan programs.
- B. We strongly recommend providing the Financial Aid Administrator the authority to limit loan amounts based on equitable institutional policy.  
(Section 428(a)(2)(C))
- C. We recommend an institution have the option of non-participation in Part B Loan programs without jeopardizing student deferment options at that institution. (Section 428(b)(1)(M))
- D. We recommend the holder of a loan be required to buy or sell loans, at the students request, in order to insure all the student's loans are with one holder. We believe the student should have the right to request all loans be placed with one holder without the higher costs associated with consolidation.
- E. We recommend that lenders who withdraw from the program be required to make provisions for all scheduled disbursements and make every effort to ensure single account and single payment arrangements are made available to the student by having all of the students loans placed with the same holder.
- F. We recommend retention of the current minimum monthly repayment for Part B loans of \$50.  
(Section 427(c), 428(b)(1)(L), 428A(c))
- G. We strongly recommend enrollment verification provided by an institution be an acceptable method of confirming a borrower's enrollment status. (Section 427(a)(2)(c))  
The federal data bank information from guarantee agencies should be current as well as accurate and used to grant such deferments.
- H. We recommend interest rates be maintained under the present structure.
- I. We recommend that the due diligence requirements be simplified to eliminate duplicative and labor intensive functions that are unrelated to the successful collections process.
- J. We recommend deferments for both old and new borrowers be based on half-time enrollment without requiring additional Part B Loans. (Section 428(b)(1)(M))

**III. PART C: College Work-Study (CWS)**

- A. We recommend retaining the current institutional matching requirement of 30%. (Section 443(b)(5))
- B. We recommend additional wording be added to Part 675, Subpart A, section 675.2, "definitions," of the Title IV regulations to allow students seeking a second baccalaureate degree or teacher certification to be eligible for CWS funds.

**IV. PART E: Direct Loans to Students**

We recommend additional wording be added to Part 674, Subpart A, section 674.2, "definitions," of the Title IV regulations to allow students seeking a second baccalaureate degree or teacher certification to be eligible to borrow Perkins Loans.

**V. PART F: Need Analysis****A. Definition for Independent Student (Section 480(d))**

We recommend the use of the current automatic criteria (i.e., age, veteran status, orphan/ward of the court, legal dependent) only to qualify for independent status, eliminating all conditional criteria. Professional judgment may be exercised as appropriate.

**B. Congressional Methodology**

1. We recommend the continued use of a need analysis format which collects essential data elements necessary for federal financial aid eligibility determination and permits the collection of optional elements for use in awarding institutional aid.
2. We support the concept that recipients of public assistance (both parents of dependent filers and independent filers) will be assumed to have a zero parents' contribution or (if independent) student's contribution.
3. We recommend the elimination of the separate need analysis provision for displaced homemakers and dislocated workers. (Section 479A(e)(f)(1))
4. For dependent students we recommend the use of a standard student contribution without regard to base year earnings except those cases where professional judgment would indicate otherwise. (Section 475(g)(1))

Mr. WASHINGTON. Thank you, Dr. Hayre. Ms. Bednar?

**STATEMENT OF DEE BEDNAR, DIRECTOR, PROPRIETARY SCHOOLS AND VETERANS EDUCATION, TEXAS STATE DEPARTMENT OF EDUCATION**

Ms. BEDNAR. Thank you. First of all, I would like to say I am glad that one of my responsibilities is not completing financial aid forms. I have enough trouble with IRS forms.

I am Dee Bednar, the director of the Division of Proprietary Schools and Veterans Education. I am pleased to be here today, because I am very excited about telling you what we in Texas have been doing to regulate proprietary schools.

And when I talk about "we," I want to emphasize that I am talking about the better proprietary schools, the Guaranteed Loan Corporation, the Attorney General's Office, the U.S. Department of Education, and every player in this complex situation.

Texas has a very good foundation of legal requirements and a commitment to education in proprietary schools. I have provided written testimony, and I do not wish to go into all the details of that. You can read that for yourself later.

But I did want to touch on what I view as three very important components of better regulation, and then I would also like to close that a few comments that I think Congress may wish to consider in its proposal under reauthorization.

Those three areas that I believe are important are funding and staffing, communication and coordination, as well as program quality.

First and foremost to me is funding levels and staffing. I believe one report I have read recently talked about a cruel hoax on consumers when legal requirements are written but the proper funding is not available.

I am pleased to say that, in Texas, the legislature and the State Board of Education has provided funding over the last 2 years that has allowed us to hire and employ the following for regulation: compliance and monitoring teams, a special investigation and closed school team, curriculum specialist, full-time attorney, computer programmer, placement and employment coordinator, a financial stability evaluator, licensing, recruiter, and instructor approval units.

I have been to a national conference recently, and I want to tell you that I was almost embarrassed at having that sort of staff. But it does show—I believe, in the Senate report, it mentioned that some States try to function with one or two staff. That cannot be done.

First of all, what it does is place the States in the situation of becoming paper pushers, as we were 3 years ago, as opposed to individuals who can provide assistance to those schools who want to provide a good quality education.

The second area that I am concerned about and think is vital is communication and coordination. We have worked very closely with the Guaranteed Student Loan Corporation, the other better proprietary schools, the Consumer Protection Division of the Attorney General's Office, the other agencies in our State that regulate

proprietary schools such as the Barber Board and the Cosmetology Commission.

On a Federal level, we work with the U.S. Department of Education with their OIG Office, the auditors. We work with the accrediting bodies. I am pleased to say that a lot of our staff are on a first-name basis with the staffs of these other agencies.

And the reason this is so important is because this is a very complex problem. There are many people who play a role in this situation concerning defaults and program qualities. Joint visits are occasionally necessary. We share information on closed schools in particular.

I am very proud of what the State has done in that when a school closes, we have a network of working with the other State agencies and the Federal agencies, and also with the proprietary schools in our State. They work with us to provide train-outs for these students, and thus far we have been able to place about 85 percent of the students.

The other area that is most important to me—and I keep saying each is most important because I think you cannot have one without the other—and that is program quality.

I do not like it when people refer to proprietary schools as businesses. That probably is true, but I think from a regulatory function, we need to view these as educational institutions. That is the service that they are to provide.

As a State education agency employee, I want us to place our focus on program quality, and that is what we have been doing over the last 2 years. It has not been an easy process. Again, we drafted a rule that we are excited about in which we involved the proprietary schools, the Attorney General's Office, and the Guaranteed Student Loan Corporation, and I would like to talk about that for just a moment.

We do not believe a program should be approved in a proprietary school unless, first of all, it is going to lead the student to a job that is recognized by employers as being a valid job. So first of all, we think there should be a job objective.

Secondly, there needs to be shown to us that there is a need for education and training. I have been embarrassed by some of the things our State has approved in the past. When we find a program that has been approved, and you learn that the student could get the job whether they had gone to the school or not and, as a matter of fact, some employers would rather hire a student that has not attended a school, we have been remiss. And so we are taking steps to correct that.

Therefore, it has to be shown to us that there is an actual need for education and training, and it has to be demonstrated that a graduate is more likely to be employed in that occupation.

Third, we think there should be jobs. There has to be a demonstrable employer demand for that occupation. Then, we come into the program content. First of all, in that area, the pre-requisite should be appropriate for the job objective. The student should be matched to the skill level necessary for them to be successful upon graduation.

The subjects must bear a substantial and demonstrable relationship to the job skills and knowledge required for employment in

the occupation, as does the length of the program. And lastly, the program title must clearly identify that occupation for which the student is to be trained.

This has been an evolving process, and I remember also reading in the Senate's report that there were a lot of political considerations on a State level. And I would like to say that we had a program denial in which all of those were brought to bear.

And when it can be shown to the legislative staff that there is a real reason for the denial, we have found those legislators to be very supportive. This particular program when to a full hearing, and we were able to show that the length could not be justified.

I want to point out that they wanted to have a 320-hour program when it had previously been 40 hours. And we all know the magic of 300 hours. We are also, in program quality, trying to work with other State agencies, in which we are having cooperative agreements to work on the content of the programs as well as the qualifications for instructional staff.

Examples there are the coordinating board in the degree programs, the Barber Board, the Cosmetology Commission, insurance, health professionals, court reporting, etcetera. We are trying, as I state, to work together to make proprietary schools something of which we can all be very proud.

I thought some about what you could do to help this be a better process. One of the things that has guided us throughout this is what I simply mindedly say, "Determine what is fair and right, and then proceed."

I also read in the Senate's report that a lot of the other States and accrediting bodies sometimes would not take action because of the threat of a lawsuit. That is a valid fear. But what we have decided here is that the threat of a lawsuit is something that you can withstand and, frankly, I would rather go forward, be sued, and lose if what we are doing is for the right reason.

But I believe that if we are right and if we are being fair, then we will not lose. And that is why we have a full-time attorney also, is to help us in times like that.

Another thing that guides us when we are trying to decide what is fair and right is that the schools often are funded by students who are borrowing money to attend the school. A very difficult thing for me—and, I have been in this sector for 20 years, and I always say I started when I was 12—but I have been here for 20 years.

And I have seen school owners that I care a lot about become very upset about what has happened to them because of the lender problems, the default rates. And we are having to take adverse action against these schools.

We have a new requirement where we can suspend enrollments. In other words, if we see a situation where we think students are going to be harmed, we believe we should corral the damage; to at least limit it to those students enrolled. Perhaps, you know, we cannot stop the school from operating right away, but we can prevent them from perhaps damaging more students.

The hue and cry there is how can I continue to operate my school if you suspend my enrollments. Our thought back is we

cannot allow capitalization to occur by low income students borrowing money to support this operation.

In thinking about the problems we have had, one is bankruptcy. I know President Bush signed a change in the bankruptcy law—November 5, I believe—that was supposed to make the States not subject to the automatic stay. We are having an unfortunate situation here where the Judge has decided that we are subject, and he has restrained us from taking action against the school.

My attorney asked that I please ask you to look at Section 105 of the Bankruptcy Act, at that particular provision where the judge has the authority to do whatever is necessary to continue the operation of the school.

I have also read of a complaint that the Federal student loans are not the State's responsibility. We do not look at it quite that way. While it may not be the State's responsibility of the Federal Loan and Grant Program, it is our responsibility to protect the consumer.

And so we care a lot about the Federal Loan and Grant Program, and that is why we work so closely with the Guaranteed Loan Corporation and the other Federal agents. But I must say that it is very difficult to have it said that when you issue a license, that means they are eligible for Federal funding.

We may issue a license to the school because they have met our minimum requirements and we would like to allow them to operate. It does not mean that I think they should receive millions of dollars in financial aid. To me, there perhaps should be different criteria.

I understand that there were several concerns on the Senate side. One, was that there were no uniform standards throughout the State. That is very true, as you well know. I believe that there should be minimum standards set for the Federal Loan and Grant Program.

I also understand that political considerations within the States were a problem. We experienced some of that there in the lobbying in the legislature. Again, I am starting to think that perhaps if you want more play in the States in this particular program, you might wish to consider the Federal contract situation.

I know you have heard about that with the Department of Veterans Affairs. We handle that Federal contract with the Department. I understand there perhaps could be a funding problem, and I wish I knew how to address that.

But to me, the Federal contract would address the uniform standards, the political impact within the various States, it would solve inadequate staff and resource problems, due process—if there were certain standards within those to address, that will help—weak enforcement. Again, staffing, etcetera, and fragmented responsibility.

We support what you are trying to do, and I certainly appreciate the opportunity to address you.

Thank you.

[The prepared statement of Dee Bednar follows:]



**ACTIONS TAKEN BY THE STATE OF TEXAS  
TO IMPROVE REGULATION OF  
THE PROPRIETARY SCHOOL SECTOR  
OF POSTSECONDARY EDUCATION**

July 22, 1991

**Introduction**

The Texas Proprietary School Act was enacted in 1972 to provide protection for proprietary school students and certification and regulation of the schools. The Division of Proprietary Schools and Veterans Education of the Texas Education Agency is charged with the regulatory function. Rules are set by the State Board of Education on the recommendation of the commissioner of education with the advice of an advisory commission. The Texas Education Agency does not regulate cosmetology and barber schools as these schools are regulated by other state agencies. Consolidation of these regulatory functions is being considered by the legislature at this writing.

**Regulatory Changes since September 1989**

In the spring of 1989, the State Board of Education asked staff to bring forward proposed rules to improve the quality of education and curb abuses in proprietary schools. Simultaneously, the Texas legislature was also considering the regulation of proprietary schools. As a result, legislation was passed to provide prospective students information needed to assess the quality of educational programs and to strengthen the regulation of proprietary schools. In addition, staff implemented new procedures to better enforce the legal requirements.

Some of these specific items are:

**CONSUMER INFORMATION AND PROTECTION**

- A tuition protection fund was created to protect students enrolled in schools that close.
- Representatives of the Texas Guaranteed Student Loan Corporation and the Attorney General's office were added as members of the Proprietary School Advisory Commission.
- Placement and employment information of program graduates must be provided to the students prior to enrollment.
- Students may request information from the Texas Education Agency as to the cost of the same program at other proprietary schools and community colleges prior to enrollment.
- Prospective students must be given a tour of the facilities and equipment prior to enrollment.



- Schools are required to supply information to a student prior to enrollment pertaining to job openings and the difference between loans and grants.
- Restrictions about the actions of recruiters are specifically outlined and sanctions against the school authorized.
- Schools are required to have a grievance procedure to resolve complaints.

#### ENFORCEMENT

- If a school does not routinely pay refunds timely or the method used to calculate student refunds is in error, an audit of the school's refunds may be required.
- On-site visits are conducted prior to approval, three months after approval, and prior to renewal each year. At least one visit per year must be unannounced.
- Sanctions, in addition to denial or revocation of approval, include suspension of enrollments, civil penalties, and peer reviews.
- Agency staff is in communication with other state agencies, accrediting bodies, and the U.S. Department of Education to coordinate regulatory activities.
- Individual staff are assigned to specific school types to ensure personal attention to a school file as well as to ensure schools of similar types are handled by the same staff member.
- Due process timelines have been reduced by instituting "docket day" so that all hearings on denials or revocations of school or program approvals can be scheduled more quickly. Consideration is being given to instituting a process whereby denials are not given unless a complete application for renewal is filed prior to expiration of the approval. Instead, a school would be considered to be operating without approval, and appropriate steps would be taken to correct the situation.

#### DEFAULT RATES

- A Memorandum of Understanding was created between the state agencies that regulate proprietary schools and the Texas Guaranteed Student Loan Corporation to develop a comprehensive strategy to reduce default rates and improve program quality. (Copies of the April, May and July minutes are enclosed as Attachment 1.)
- Indicators and sanctions pertaining to program quality and default rates are being explored.

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**PROGRAM QUALITY**

- The commissioner of education will establish minimum and maximum program lengths for recognized occupations.
- Programs will not be approved unless:
  - (1) the job objective is one that is recognized by employers or a specified list of entities;
  - (2) the actual need for education and training has been demonstrated by the fact that a graduate is more likely to be employed in the occupation for which the program is offered than an individual who does not enroll in the program;
  - (3) there is a demonstrable employer demand for the occupation;
  - (4) the subjects (content) must bear a substantial and demonstrable relationship to the job skills and knowledge required for employment in the occupation as does the length of each subject; and
  - (5) the program title must clearly identify the occupation for which the program is offered.
- Program application evaluations include consultations by agency staff with employers either through a committee process or individual contacts.
- Cooperative agreements to improve program quality are being developed with other state agencies responsible for the regulation of the occupational profession or agencies with expertise in the occupational field.
- The minimum qualifications of directors and instructors were strengthened. In addition, directors are required to attend an agency-sponsored workshop prior to approval, annual evaluations of instructors must be done, and staff development is required.
- Specific provisions were included for entrance requirements, remedial programs, and refunds for ineligible students.
- The requirements for progress and attendance policies, equipment, and space were strengthened.
- Denial of a new program was authorized if a school's compliance is in question, in addition to denials based on inadequate program quality.
- A Memorandum of Understanding was developed between the Texas Higher Education Coordinating Board and the Texas Education Agency whereby the degree program requests are determined by the coordinating board and the institutional requests are determined by the education agency.

### Funding and Staffing

Legal requirements cannot be effective without the added support of adequate funding and staffing levels. Therefore, to support enforcement of the new requirements, the legislature and the State Board of Education increased the fee schedule and approved seven additional compliance professional staff with accompanying support staff for the proprietary schools section of the division. Further, financial, legal, programming, and curriculum specialists were added to the staff such that the staff now includes:

- compliance and monitoring teams
- special investigations and closed school teams
- curriculum specialist
- attorney
- computer programmer
- placement and employment coordinator
- financial stability evaluator
- licensing, recruiter, and instructor approval units

An organization chart of the division is included as Attachment 2.

### Impact of Changes in Regulation

Due to the current environment of proprietary schools, it is often difficult to ascertain one reason as opposed to several reasons why a school closes. Also, the delay in ascertaining the default rates of a graduating class also causes a delay in ascertaining whether certain initiatives are effective in reducing default rates. It can be said that the Texas State Auditors office has investigated the initiatives of the Texas Education Agency and the Texas Guaranteed Student Loan Corporation and believes the impact will be a reduction in default rates. As further evidence that the Texas scheme of regulation is effective perhaps is demonstrated by the following data:

	<u>Twelve Months Ended</u> August 31, 1989	<u>Nine Months Ended</u> May 31, 1991
Total No. of Licensed Schools	413	313
Newly Certified Schools	45	20
Closed Schools	26	44
Revocations or Denials	28	130
Attorney General Cases	2	7
Suspensions of Enrollments	n/e	34

### Closing Comments

The focus of regulation is now on program quality and outcomes. Compliance and monitoring are important and will continue; however, the focus is shifting from the steps taken to reach the goal to the goal itself. The goal in proprietary schools is whether the students remain in school and whether the graduates are successful. Those schools with excellent outcomes should be allowed more flexibility in operations within certain parameters.

Further, many of these students have low-incomes and do not have good family-support systems. The successful schools fulfill that need with support services. A positive peer situation must be created to assist the student in becoming a success. Standards should not be lowered due to a poor background, but instead, the programs and services expanded to help these students meet the same standards of success as other students. These students must enter the same "real world" as other students who are more fortunate financially and personally. The schools must be challenged and assisted in meeting these high expectations.

For more information, contact:

Des Bednar, Director  
 Proprietary Schools and Veterans Education  
 Texas Education Agency  
 1701 Congress Avenue  
 Austin, Texas 78701  
 (512) 475-3560

**MINUTES  
STATE AGENCIES TASK FORCE  
April 4, 1991**

The State Agencies Task Force met on Thursday, April 4, 1991, at 9:00 a.m. in the William B. Travis Building, 1701 North Congress Avenue, Room 1-110, Austin, Texas.

The following members were present:

Dee Bednar, Texas Education Agency  
Ron Resech, Texas Cosmetology Commission  
George Torres, Texas Guaranteed Student Loan Corporation

The following members were absent:

Jo King McCrorey, State Board of Barber Examiners  
Don Smith, Board of Private Investigators and Private Security Agencies

State Agencies requested to attend meetings as members and present:

Jon Hittman, Texas Higher Education Coordinating Board  
Frank Coggins, Texas Rehabilitation Commission

Others present were: John Swinton, State Auditors Office (Texas performance review); Duncan Fox, Texas Education Agency; Ed Wendler, Sr.; and Julian H. Zimmerman.

Minutes

It was moved by Jon Hittman, seconded by Ron Resech, and carried unanimously to accept the minutes of the March 5, 1991 meeting.

Time Table

Dee Bednar presented a time table for action by the task force to reach the legislative objectives (Attachment A). This table was reviewed by the members. It was moved by Jon Hittman, seconded by George Torres, and carried unanimously to adopt the time table.

Responses from Each Agency pertaining to (1) organization of the task force, (2) information collected by the agency, and (3) a definition of program quality.

Dee Bednar presented the Texas Education Agency's written response to the information requested by the task force at its March 5, 1991 meeting (Attachment B). The time table mentioned in item "1." had been adopted and so, discussion centered around item "2."

Ron Resech informed the members that under "program quality", the Texas Cosmetology Commission collects all but (A). Under "Default Rates", the commission collects all but (B) and (C).

Frank Coggins informed the members the Texas Rehabilitation Commission collects information on employment by occupation, the number of clock hours, progress and attendance. He noted that Texas Education Agency approval is used to select training establishments.

George Torres informed the members that the Texas Guaranteed Student Loan Corporation collects information about default rates, volume data, specific school information as well as legislative and regulation information pertaining to the U.S. Department of Education and the Texas legislature.

The definition of program quality was then discussed with alternative language proposed by Jon Hittman. After some discussion, it was moved by Jon Hittman, seconded by George Torres, and carried unanimously to adopt this definition of program quality.

"Program quality means the achievement of desirable objectives using legitimate means (diverse features of education). Desirable objectives are states of knowledge, skills, career enhancement and/or employment in a field related to training as appropriate."

#### Indicators

The members then discussed indicators of poor program performance and excessive default rates. Jon Hittman presented a draft paper entitled "A Multiple Dimension Model for Quality Assessment of Proprietary School Programs" for the consideration of the membership as a means of evaluating program quality and default rates (Attachment C). There was much discussion and it was agreed that the concept deserved further consideration. Input from the members who were unable to attend this meeting was needed for concept approval.

It was also agreed that the concept was appropriate but due to its complexity and the need for a short-term plan for improving program quality and reducing default rates, a two-fold approach was necessary. Two plans would evolve. The first would be an immediate one including obvious indicators of poor program quality and excessive default rates. The second would be to pursue Mr. Hittman's proposal.

The indicators shown as Attachment D were proposed by the members as indicators for the short-term plan. It was agreed that all members would consider these indicators and determine (1) whether other indicators should be included, (2) a rate to propose for each indicator, and (3) the documentation required for each indicator.

#### Speakers

It was agreed that in order to make wise decisions pertaining to program quality and default rates, the task force needed input from other sources such as proprietary schools, employers, and other agencies. Attachment E lists those individuals to be invited to make presentations at the next meeting to be held on May 10 and the name of the task force member responsible for requesting the speaker's input.

The meeting was adjourned at approximately 2:30 p.m.

**TIME TABLE TO  
IMPLEMENT MOU WITH  
OTHER STATE AGENCIES**

MARCH 91	<u>  X  </u>	Adopt Purpose Statement
APRIL 91	<u>  X  </u>	Examine types of information available
	<u>  X  </u>	Define program quality
	<u>  X  </u>	Discuss indicators of poor program performance and excessive default rates
	<u>  X  </u>	Relate information to indicators
	<u>  X  </u>	Consider speakers
MAY 91	<u>      </u>	Speakers
JUNE 91	<u>      </u>	Review written report/rules regarding development and monitoring of indicators and sharing of information relating to those indicators
	<u>      </u>	Develop strategies to reduce default rates and improve program quality including sanctions
JULY 91	<u>      </u>	Review written report/rules as amended at the May meeting and new language regarding strategies and sanctions
AUGUST 91	<u>      </u>	Public hearing
SEPTEMBER 91	<u>      </u>	Reaction to information at public hearing
OCTOBER 91 - MARCH 92	<u>      </u>	Each agency utilizes appropriate process to adopt and implement report/rules
APRIL 92	<u>      </u>	Task force meets to hear progress report from each agency and plan future meetings

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**TEXAS EDUCATION AGENCY  
RESPONSE FOR APRIL MEETING  
STATE AGENCIES TASK FORCE**

**1. Organization of Task Force:**

Each task force member must pursue this project with interest and a high level of focused productivity. A time table should be adopted which tracks the statute, MOU, and purpose statement. For consideration, see attachment.

**2. Information collected by TEA:**

**Program Quality:**

- (A) number and rates of employment and retention and completion by program
- (B) number and type of complaints pertaining to program quality for each school
- (C) reports of on-site visits - attendance, progress, complaints
- (D) instructor qualifications
- (E) program entrance requirements, content, and length reviews by industry and education experts
- (F) Curriculum, instructor qualifications, equipment, texts

**Default Rates:**

- (A) number and rate of drop-outs
- (B) schools with refund problems
- (C) schools with commission only recruiters
- (D) financial condition of school
- (E) closed schools
- (F) number of clock hours in each program
- (G) progress and attendance policies

**Ideas for information from other agencies:**

- (A) TRC - report from other agencies regarding employment of graduate
- (B) SOIC or TEC - starting and average salary for objectives and market demand

**3. Definition of Program Quality:**

The extent to which students obtain appropriate job skills and knowledge resulting in employment in a field related to training.

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**A Multiple Dimension Model  
for Quality Assessment of Proprietary School Programs**

**Prepared by  
Jon A. Hittman  
Associate Program Director  
Texas Higher Education  
Coordinating Board**

**4/8/91**

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**DRAFT FOR REVIEW ONLY**

**BY THE TASK FORCE  
ON PROPRIETARY SCHOOL  
STUDENT LOAN DEFAULT REDUCTION**

### Executive Summary

Recent legislation has impacted the state agencies that regulate proprietary schools. These agencies have been charged with the responsibility to devise a "comprehensive strategy" designed to reduce default rates and improve the quality of programs offered in proprietary schools. The purpose of this paper is to present a model for evaluating program quality.

The literature supports the use of a comprehensive approach to the evaluation of program quality. Neither educational process nor outcomes, measured in isolation, can effectively provide assurance of quality. The "open systems" theory suggests a comprehensive evaluation method which takes into account the characteristics of the institution's student body, the educational process employed by the institution, and the results achieved.

This "open systems" strategy uses a panel of experts to; 1) define quality, 2) identify components, sub-components, and indicators of quality, 3) identify high, medium, and low risk factors connected with student default rates, and 4) establish a system of weighting that will determine the relative importance of the components and sub-components of quality programs. The input of these experts can be the foundation upon which a quality assessment instrument is based.

The last segment of this paper is a model which simulates the results of an "open systems" evaluation using admissions, curriculum, instruction, and outcomes as components of program quality.

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**DRAFT****Background Information**

The recently amended Proprietary School Act mandates that the state agencies, responsible for the regulation of proprietary schools, develop a "comprehensive strategy to reduce default rates at the regulated proprietary schools and improve the overall quality of the programs operated by these schools." This "comprehensive strategy" is to be expressed in a Memorandum of Understanding among the various regulating agencies and requires the "development and monitoring of indicators that identify schools that have excessive loan default rates, poor program quality, or both." This legislative expresses a concern regarding the regulation of proprietary schools by state agencies centering on the effectiveness of efforts to define and measure quality education. The intent of the legislation is to reduce default rates through the development, delivery, and encouragement of quality programs.

The charge to the various state agencies, responsible for the regulation of proprietary schools, is to develop and implement a strategy of regulation that ensures quality programs and reduces default rates. The purpose of this paper is to provide a quality assessment index model that is comprehensive and will accurately measure the quality of programs offered at proprietary schools.

**Limitations of Single Dimension Approaches  
to Quality Evaluation**

This section defines and outlines the limitations of quality assessment which focuses on a single dimension (e.g. outcomes only or process only). Structural assessment, sometimes known as

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"process evaluation" addresses quality assurance by setting standards regarding the structural elements of education such as; stability of resources, administrative organization, qualifications of instructors, and adequate facilities. State licensing agencies and accrediting associations usually perform this evaluation with the espoused theoretical purpose of controlling cost and ensuring quality education. Structural elements do form the basis for the educational system and there exists little doubt that schools and teachers do affect the quality of learning (Hoy and Miskel, 1987). However, there is no homogeneity of their effect on students. Research has noted a weak correlation between structural assessments and other measures (e.g. outcomes) of quality education. Madaus (1980) states unequivocally that "empirical researchers have not clearly identified any variable related to instruction, policy, or resources which consistently affects output." The criticism of process criteria is that optimal process does not always assure an optimal outcome.

Obviously, if the agencies want to improve the outcome of education delivered by proprietary schools then they need to measure it directly in terms of completion rates, placement rates, GSL default rates, beginning salaries, persistence in employment and perhaps other indicators as well. A student who graduates, since graduation is the general goal of the program, has face validity as a quality measure. The repayment of student loans is likewise an indicator of quality. Determining quality based solely upon outcomes is attractive because the quality measures (e.g.

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graduation rates, placement rates, etc.) can readily be computed. However, some limitations remain since, for example an adverse outcome may have multiple causes, which may or may not include the education delivered. No matter how they are measured, differences in socio-economic background of the family lead to significant differences in student achievement (Hoy and Miskel, 1987). An "outcome only" assessment of quality for proprietary institutions would encourage higher entrance standards which could have a positive effect on outcomes without affecting the quality of the programs offered. Reconciling the exclusion of a student who can't meet the entrance requirements but could benefit from the training is another limitation of the "outcome only" approach to quality assessment.

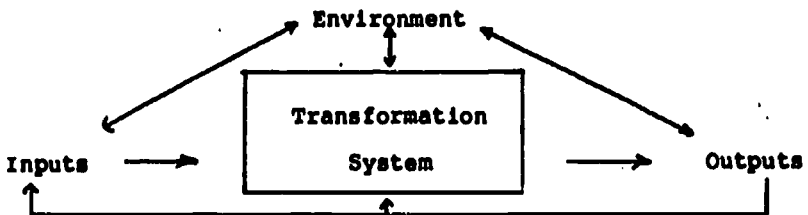
#### Rationale for a Multi-dimensional Model

Development of a comprehensive strategy to improve the quality of programs in proprietary schools is integrally linked to understanding the concept of "quality" itself. Borrowing from the health care industry's widely accepted definition of quality medical care (Donebedien, 1988) quality vocational education can be defined as: "the ability to achieve desirable objectives [states of knowledge or skill] using legitimate means [diverse features of education]." The breadth of this definition coupled with the limitations of the single variable (e.g. outcome or structural evaluation) approach to assessing quality suggest that any accurate appraisal of quality must be multi-dimensional and systems oriented.

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For the purposes of this paper a system is defined as a set of interdependent elements forming an organized whole. Early systems research suggested that organizational success was dependent upon the internal forces of the system. More recent research reveals that a comprehensive approach which includes both internal and external forces is appropriate. The Open Systems theory recognizes the importance of internal forces and further suggests that organizations are not only influenced by their environments but dependent upon them. Richard Scott (1981) states that the open systems model stresses the reciprocal ties that bind and interrelate the organization with those elements that surround and penetrate it (see figure 1).

(Figure 1)



Organizations such as proprietary schools are social transformation systems comprised of distinct interacting social elements bound together in mutually interdependent relationships. For example, in order to function effectively, proprietary schools must interact with and are dependent upon administrators, faculty

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members, and students, as well as federal, state, and local governments.

It is; 1) the breadth of the definition of quality, 2) the limitations of single dimension approaches, (e.g. process only or outcomes only evaluation), and 3) the interrelatedness of different dimensions (e.g. the socio-economic background of the students, the educational process of the school, and the outcomes of the process) that require a comprehensive "systems" approach to quality appraisal.

#### Proposed Methodology

The process of quality assessment is predicated upon the clear definition of "quality" and the development of an instrument that accurately reflects the level of quality of the program being evaluated.

The instrument used in the proposed evaluation process should be designed to:

- 1) yield a single score indicative of overall quality;
- 2) yield subscores indicative of a school's performance on several dimensions;
- 3) be feasible to administer given the agencies resource constraints;
- 4) be relatively unobtrusive (i.e. data should be collectible without significant disruption to the educational operation of the school;

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respected leaders are polled for nominations and those most often mentioned would be included on the panel.

The first stage of instrument development is qualitative in nature and focuses on the identification of the basic attributes of quality vocational education using the nominal group method (Delbecq, 1975). The panel of experts should be convened and their responsibility is to identify and organize components, sub-components, and indicators of quality programs.

Example:

(Component) Q1 ADMISSIONS

(Sub-Component) Q1.5 CONSUMER PROTECTION

(Indicators) Q1.5.1 Catalog

Q1.5.2 Placement Rates Revealed

Q1.5.3 Completion Rates Revealed

Q1.5.3 Complaint Information

Q1.5.4 Total Cost of Program

Q1.5.5 Loan Information

The second phase of the instrument development process is the quantitative stage in which the strength of the relationship between the already identified qualitative attributes and quality is determined. A different set of panelists should be convened and the task of this new panel is to rank order the components of quality and assign relative weights to each. The same procedure should be followed for the sub-components. The panel should then develop a range of performance for each indicator.



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It is apparent that there are a variety of students enrolled in proprietary schools and they possess a broad range of academic skills, life experiences, and motivation levels. Some student characteristics have a positive correlation with loan default. Therefore, different sets of weights should be established for each component reflecting the varied risk of default. The panel should rank order the at-risk factors designating what combination of indicators represent high risk, medium risk, and low risk. The weights assigned to each component should correspond to the level of default risk. The rationale for this distinction is that the intensity of service required for "high risk" students differs somewhat from the intensity of service required for "low risk" students in order to attain the same goal (reduced default rate). If the intensity of educational service required to achieve the espoused goals differs slightly then the measure of quality should also account for this difference. The components, sub-components, and indicators for the three types of students does not change, however, the relative importance of these elements could differ and should correspond to the level of default risk.

#### Simulated Results

The chart that follows simulates the results of a quality assessment. The quality components (Q1-Q4), sub-components (Q1.1-Q4.6), performance levels, weights, and percentage of students in the risk categories reflect the thoughts and bias of the author and are for demonstration purposes only.

		MM Mgt.	MM Mgt.	LA Mgt.	%	MM Score	MM Score	LA Score	MM Score
Q1	ADMISSIONS	30	28	26		23.3	22.5	20.6	22.5
	Q1.1 Recruitment	1	2	4	80				
	Q1.2 Assessment/ ATS	8	8	7	75				
	Q1.3 Service Area Importance	4	5	4	40				
	Q1.4 Orientation	7	6	4	45				
	Q1.5 Consumer protection	7	7	7	90				
Q2	CURRICULUM	19	19	25		12.1	17.1	22.5	16.5
	Q2.1 Planning	2	4	7	90				
	Q2.2 Equipment & Facilities	2	4	6	100				
	Q2.3 Instructional Materials	2	4	5	90				
	Q2.4 Student Services	5	4	3	90				
	Q2.5 Public & Private Linkage	4	3	4	75				
Q3	INSTRUCTION	23	23	21		21.2	21.2	19.4	21.0
	Q3.1 Faculty Qualifications	4	3	3	95				
	Q3.2 Administrator Qualifications	2	2	2	95				
	Q3.3 Faculty Development	4	4	4	80				
	Q3.4 Student/ Teacher Ratio	4	4	3	100				
	Q3.5 Equipment/ Student Ratio	4	4	4	100				
	Q3.6 Program OPS	2	3	3	85				
	Q3.7 Student Passage Rates	3	3	2	90				
Q4	OUTCOMES	32	30	24		22.1	23.4	19.4	22.3
	Q4.1 Completion Rates	6	5	5	40				
	Q4.2 Placement Rates	5	4	4	85				
	Q4.3 Student Satisfaction	6	6	4	70				
	Q4.4 Employer Satisfaction	4	6	6	75				
	Q4.5 Job Persistence	5	5	4	50				
	Q4.6 Starting Wage	4	4	3	75				
		*100	*100	*100		79.0	44.5	41.9	42.2

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### Formulas and Given Information

**HR** = Student with characteristics identifying them as having a High Risk of defaulting on a loan.

**MR** = Student with characteristics identifying them as having a Medium Risk of defaulting on a loan.

**LR** = Student with characteristics identifying them as having a Low Risk of defaulting on a loan.

In this fictitious institution 38% of the student population is HR, 45% is MR, and 17% is LR.

The % column on the following chart represents the performance level on the indicators (not listed on the chart) reported by the evaluator.

**HR score** = (weighted value) x (performance score) x (38%)

**MR score** = (weighted value) x (performance score) x (45%)

**LR score** = (weighted value) x (performance score) x (17%)

**MIX** = (% HR) X (HR Score) + (% MR) X (MR Score) + (% LR) X (LR Score)

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INITIAL PROPOSAL OF INDICATORS  
OF  
PROGRAM QUALITY AND DEFAULT RATES

Program Quality

Completion Rate  
Employment Rate

Default Rates

Completion  
Employment Rate  
Ratio of debt payment to starting wage  
Ability to benefit students  
Majority of Student with loans of less than \$2,500 or only one loan  
Program of less than 600 clock hours in length

Each agency member is to:

- (1) propose other indicators
- (2) determine the appropriate rate/number for each indicator
- (3) determine the appropriate documentation for each indicator

**SPEAKERS TO BE INVITED TO THE MAY 10, 1991  
STATE AGENCIES TASK FORCE MEETING  
and the  
MEMBER TO EXTEND THE INVITATION**

Speaker's NameMember's Name

placement/rehabilitation counselors

Frank Coggins

cosmetology school(s) official

Ron Resech

Shannon James  
representative of Family Welfare  
Better Business Bureau

George Torres

employers

Jon Hittman

Steve Gregg  
Steve Friedheim  
Joni Gilton  
Robin Roberts  
Beverly Donoghue

Dee Bednar

**MINUTES  
STATE AGENCIES TASK FORCE  
MAY 17, 1991**

The State Agencies Task Force met on Friday, May 17, 1991, at 9:00 a.m. in the William B. Travis Building, 1701 North Congress Avenue, Room 1-110, Austin, Texas.

The following members were present:

Dee Bednar, Texas Education Agency  
Jo King-McCrorey, State Board of Barber Examiners  
Vickie Eyhorn, State Board of Barber Examiners  
Alicia Ayers, Texas Cosmetology Commission  
George Torres, Texas Guaranteed Student Loan Corporation

The following members were absent:

Don Smith, Board of Private Investigators and Private Security Agencies

State Agencies requested to attend meeting as members and present:

Frank Coggins, Texas Rehabilitation Commission  
Jon Hittman, Texas Higher Education Coordinating Board  
Robin Roberts, Texas Employment Commission

Others present were: Elizabeth Bradshaw, Beverly Donoghue, Tony Lawrence, Jane Moonaw, Jim Zaija, and Carolyn Willard.

Employers, proprietary schools, and other state agencies were invited to make presentations at this meeting that would provide task force members with information to write rules for improving program quality and lower default rates in proprietary schools. The entire meeting was dedicated to this task. Listed below are the speakers and a few comments.

Elizabeth Bradshaw, Ginny's Printing and Copying  
(employer of a small to medium business)

1. Programs should include:  
current technology and techniques;  
basic high school math and English;  
computer training;  
work place values such as being a team player, integrity, self initiative, business etiquette, setting and meeting goals, reliability; and  
job hunting and interviewing skills.
2. Experience and education are respected equally.
3. Private sector may be forced by competition to pay for training of potential employees.
4. Employers would want to be included in determining instructor qualifications, program content and length, and student entrance requirements.

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Tony Lawrence. Texas Rehabilitation Commission (TRC)  
(employee of a state agency)

1. 80-90% of the proprietary schools do an excellent job.
2. Some problems encountered in proprietary schools by TRC:
  - sole purpose is profit-margin, not education,
  - false and misleading advertising concerning starting wage and placement (includes students not employed in the field in which they are trained),
  - students without adequate progress are allowed to continue until the student is close to graduation,
  - Texas Education Agency needs to better enforce rules and more fully investigate complaints, and
  - employers contacted by TRS will not hire graduates of a specifically named school.
2. TRG has information on placement of its clients by school name.

Robin Roberts. Employment and Education Liaison.  
Texas Employment Commission (TEC)  
(employee of a state agency)

There was a general discussion of the essential elements of quality education. Some thoughts were:

1. neutral party testing,
2. counseling at the school site,
3. performance measures,
4. statewide standards (TEC has wage data),
5. access to education,
6. labor market measures and standards,
7. retention in job,
8. employer satisfaction,
9. improvement plans, and
10. sanctions

The use of cost standards was discouraged as was any measure that did not take into account the change in value added. "Creaming" should be avoided.

Carolyn Willard. Court Reporting Institute of Texas. Dallas  
(owner of a proprietary school)

1. The types of students to be served must be considered above all else.
2. Federal initiatives have already begun to reduce the default rate.
3. Those who service the loans cause many of the problems.
4. Loans are sold so many times that it is difficult for the student to know to whom the payments should be made.
5. The default rates of the servicers should be examined.



Jane Moomaw, Art Institute of Houston

(vice-president in charge of financial aid at a proprietary school)

1. A full time loan counselor is an asset. This person becomes a familiar face, a friend for the student to contact even after graduation or termination if there are problems. Personalization of the process is important for success.
2. The counselor works with the student to train them to handle their problems as opposed to the counselor performing the activity.
3. When the student leaves the school, another reference sheet is completed to assist the school in locating the students in the event the student needs to be contacted about the loan.
4. Multiple loans may be considered for purchase by Sallie Mae.
5. Other counselors are on staff to assist the student with personal problems to assist in keeping the student in school.
6. Disincentives may be the best regulatory scheme but rewards for compliance should also be considered.
7. Peer reviews would be beneficial.

Jim Zaija, CompuAdd Computers

(employee of a small to medium business)

Mr. Zaija introduced the Malcom-Baldrige concept on quality and the membership discussed its applicability toward state agencies, proprietary schools, and proprietary program offerings. The application was supplied by Jon Hittman and it will be reviewed and studied. Mr. Zaija also serves on the Austin Quality Council.

Due to the fact that at the end of the meeting, only members Hittman and Bednar were still in attendance, another meeting date was not set. It was agreed that additional information from Ms. Roberts at the next meeting would be beneficial. The meeting adjourned at approximately 2:30 p.m.

**MINUTES  
STATE AGENCIES TASK FORCE  
JULY 8, 1991**

The State Agencies Task Force met on Monday, July 8, 1991, at 9:00 a.m. in the William B. Travis Building, 1701 North Congress Avenue, Room 1-110, Austin, Texas.

The following members were present:

Dee Bednar, Texas Education Agency  
Alicia Ayers, Texas Cosmetology Commission

The following members were absent:

Jo King McCrorey, State Board of Barber Examiners  
Don Smith, Board of Private Investigators and Private Security Agencies  
George Torree, Texas Guaranteed Student Loan Corporation

State Agencies requested to attend meetings as members and present:

Jon Hittman, Texas Higher Education Coordinating Board  
Robin Roberts, Texas Employment Commission  
Charles Stevens, Texas Rehabilitation Commission

Others present were:

Debbie Murray, Bob Lahti, and Beverly Donoghue

The first order of business was to consider the minutes of the April 4, 1991 and May 17, 1991 meetings. It was moved by Jon Hittman, seconded by Robin Roberts and carried unanimously to accept the minutes of the April 4, 1991 and May 17, 1991 meetings. It was noted later in the meeting that the remarks made at the May 17 meeting by Tony Lawrence, Texas Rehabilitation Commission, concerning lack of enforcement of Texas Education Agency (TEA) rules and complaint investigations referred to complaints filed with the agency over two years ago. A meeting has been set with Mr. Lawrence and the special investigation team of the agency to discuss cooperative measures to handle complaints and exchange information.

One speaker, Dr. Beverly Donoghue, could not be heard at the May 17, 1991 meeting due to time constraints. Therefore, she presented her thoughts on program quality at this meeting. Dr. Donoghue is a staff member of the Division of Proprietary Schools and Veterans Education and has the responsibility of program approvals for proprietary schools. The main points addressed by Dr. Donoghue are:

**Prerequisites**

- The prerequisites must be appropriate for the program objective and should match the student to the program in skill level, and previous education and experience.
- A concern expressed was that "paper and pencil" type testing is often used and this is the type of testing which caused these types of students difficulty in the past.

- Court reporting is an example of a program where there are no prerequisites (except high school graduation); despite the need to test hearing acuity, manual dexterity, and command of the English language.

#### Content and Length

- Advisory committees should be utilized.
- Many factors affect length - (1) ability of students (2) geographic area, (3) type and size of work place setting, and (4) skills required for the job objective.
- Self-paced programs can be very effective and are not yet addressed.
- New program application currently being developed for use by TEA will request the necessary information to make good decisions about program approvals. For example performance standards by subject and technical skills required by employers.
- Programs need to incorporate critical thinking and processing skills, problem solving.
- We should encourage revisions in curriculum in response to industry's changing needs. Job training programs are dynamic, not static. This underscores the critical need for advisory committees.

#### Support Services

- These are necessary because of the type of student enrolling in proprietary schools. The reasons students drop out must be known to the school so that corrective action may be taken. Successful schools have activities that make the student feel a part of the family. These students need the "people connection".

#### Instructors

- Continuing education is extremely important to keep instructors up to date in their field of instruction and changing technologies.
- "Chalk and Talk" is the least effective method of teaching with these students. We should encourage schools to address different learning styles that facilitate student participation by using a variety of instructional methods.

#### Cost

- A standard for the ratio of cost to reasonable salary expectation of the graduate should be established.

#### Outputs

- We need to understand what is behind the numbers.

- The completion rate will fluctuate depending on the program, locale, students' ability, and other factors.
- In addition to placement/employment rates, we should look at success on the job. What is the job tenure? At what level of salary and responsibility? Has the student advanced on the job?
- The bottom line is the employment rate.

#### Consumer Protection

- Students should be aware that diagnostic testing and different programs are available.
- If potential students were more aware of their school and program options, schools would be encouraged to offer better programs.
- Communication with other states would be very beneficial. What programs are offered? What are their standards? What are the outcomes?

Questions were asked of Dr. Donoghue. It was agreed that monetary incentives were necessary to cause schools to want to have better programs. To avoid creaming, weights were needed for different types of students, density of the area, the environment, etc. This would result in an adjustment of the standard as encouragement for schools to accept the "harder to teach" students. It is important to give schools as much freedom as possible to design programs to meet the standards. Discussion also centered around the fact that programs should be designed to accommodate the type of student rather than lowering the standards. There should be an adjustment in the standards in the first year of a program offering to allow for "the bugs to be worked out." Technical assistance should be provided by agency staff.

The timetable agreed on at the March meeting was then discussed as well as the future of the task force in light of John Sharp's proposals to consolidate some of the state agencies involved in the work of the task force. It was agreed to continue to follow the tasks indicated on the timetable but to disregard the months indicated due to the current concerns about the futures of some of the agencies. The group then proceeded to discuss in detail the indicators of program quality. The conclusions of the discussion are listed on Attachment A. The membership of the task force will be considering further these indicators and be prepared at the next meeting to discuss the indicators of default rates.

The meeting adjourned at 12:30 p.m.

PROPOSAL OF INDICATORS  
OF  
PROGRAM QUALITY AND DEFAULT RATES  
July 8, 1991

Program Quality

*Initial approval*

- (1) Admissions standards, curriculum content and length developed with employer input and tied to work skills required for employment. Content includes subjects in work place values such as problem solving, setting and meeting goals, integrity, reliability, team playing, and job hunting and interviewing skills.
- (2) Financial integrity is evident including financial stability, adequate facilities, equipment, furniture, instructional materials, etc.
- (3) Adequate instructor qualifications
- (4) Advisory committee consisting of employers or potential employers

*Continued approval*

- (1) Completion rates\*
- (2) Employment rates\*\*
- (3) Instructional staff  
continuity of staff  
staff development
- (4) Financial integrity  
financially stability  
equipment, facilities, instructional materials maintained and available
- (5) Competency gains  
pre-test and post-test and  
outcome assessment
- (6) Employer satisfaction  
evaluation of training after employment to determine:  
effectiveness of training  
initial wage and level of responsibility job persistence  
changes in wage and level of responsibility over time
- (7) Curriculum and length  
Constant and continuous program evaluations to improve and meet  
changes in employer needs

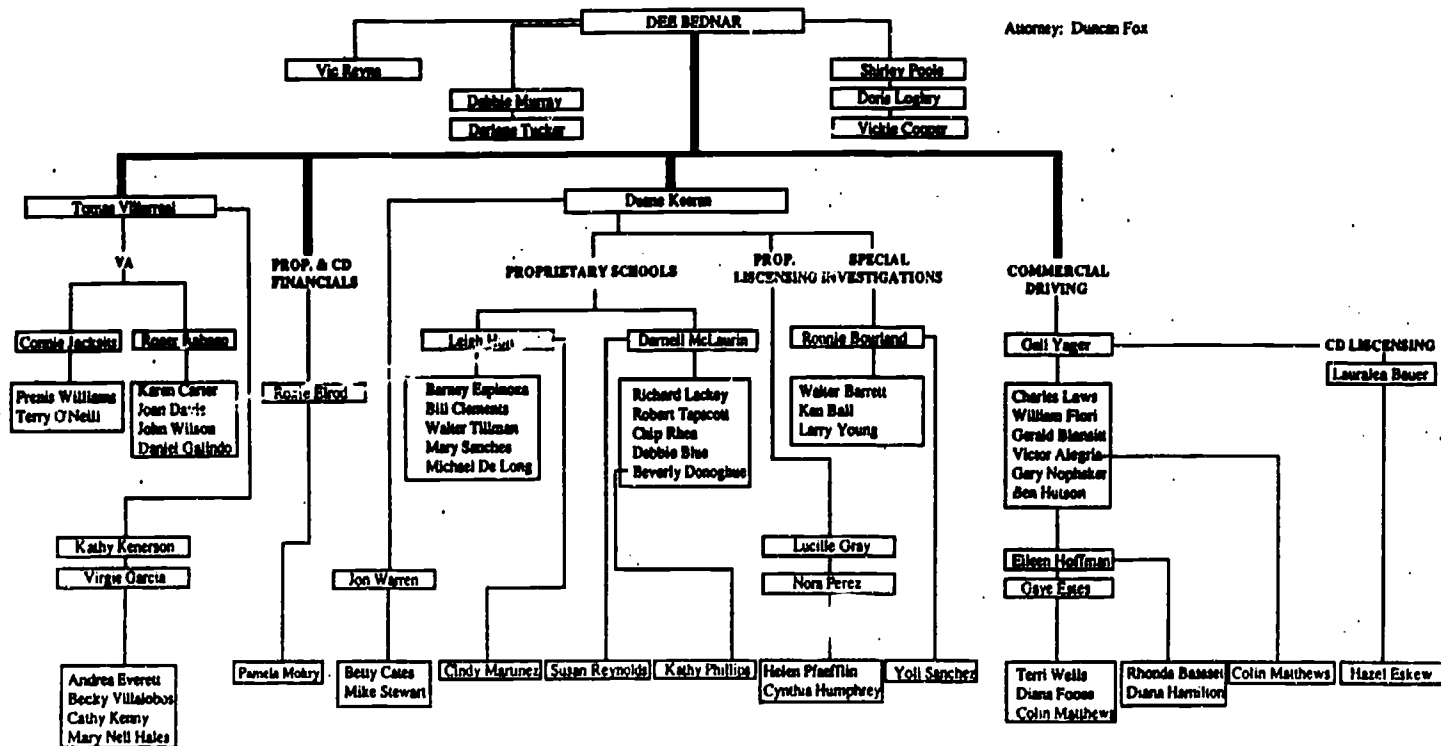
\*Corrective action could include revised admission standards, restructure the commission to be paid over the entire length of the program until the student graduates, revised student assessment procedures, additional support services, analysis to determine why students drop out, link recruiters and instructors to assist recruiters and other relevant personnel in determining characteristics of a successful student, reduced student-teacher ratios, instructional methods evaluation, school administration evaluation, more staff development, etc.

**\*\*Corrective action could include additional employer in-put, development of sole source for particular employer, placement services, reevaluation of curriculum and length with emphasis on job skills needed for job persistence, etc.**

**Student Loan Default Rates**

- (1) Completion rate
- (2) Employment rate
- (3) Ratio of debt payment to starting wage
- (4) Ability to benefit students - prerequisites appropriate for program objective
- (5) Majority of students with loans of less than \$2,500 or only one loan
- (6) Program of less than 600 clock hours in length

**TEXAS EDUCATION AGENCY  
DIVISION OF PROPRIETARY SCHOOLS AND VETERANS EDUCATION**



06/25/91

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Mr. WASHINGTON. Thank you, Ms. Bednar. Mr. McCormick?

**STATEMENT OF JOSEPH L. MCCORMICK, PRESIDENT, TEXAS  
GUARANTEED STUDENT LOAN CORPORATION**

Mr. McCormick. Mr. Washington, Mr. Jefferson, my name is Joe McCormick. I am president of the Texas Guaranteed Student Loan Corporation, the non-profit corporation designated by the Texas legislature to administer the Federal Guaranteed Student Loan Program. I appreciate the opportunity to be here today to discuss the reauthorization of the Higher Education Act.

And I especially am pleased to be here on the panel with my colleagues Dee Bednar of the Texas Education Agency, an agency that has done—in the last 3 years—an outstanding job of oversight regulating proprietary schools, and Mr. Comer Alden, a leading spokesperson for the proprietary school industry, who I would point out currently serves on the board of directors of the Texas Guaranteed Student Loan Corporation.

Two personal comments if I may, Mr. Washington, before I begin my remarks. One, I think you are the first Texan to serve on the Subcommittee for Postsecondary Education in a very long time, and that is long overdue. And we are very proud that you elected to serve on that committee.

Secondly, if you remember nothing else that has been said here today, I hope you will remember the comments of the students on how complex this process has become, and how important it is, although how difficult it will be, to make changes that truly will simplify the delivery of student aid. And I hope definitely you will carry that back to Washington.

But since the last reauthorization of the Higher Education Act in 1936, over \$55 billion in Title IV student aid has allowed thousands of needy students to pursue their education at over 3,000 traditional 4- and 2-year institutions, as well as almost 6,000 private for-profit proprietary schools.

This level of commitment by the Congress to provide access to postsecondary education to all who can benefit has made the American system of postsecondary education the most enviable and the most accessible system of education beyond high school in the world.

But during that same 5-year period, we have unfortunately also seen this highly accessible system subjected to a dramatic increase in student loan defaults and an alarming increase in cases of poor program administration and downright fraud.

The Department of Education indicates student loan defaults will exceed over \$3 billion by year's end. Cases of fraud and abuse in the program in recent years have been well-documented by the Inspector General's Office, the Department of Education and, most recently, the Senate Investigation Committee on Fraud and Abuse in the Student Aid Programs.

But before we talk about and dwell on those abuses, I think it is important that we be reminded of what has already been done. The United States Congress during the past 3 years has taken serious steps to address both defaults and fraud and abuse in student aid.



Congress enacted legislation to prohibit schools with cohort rates in excess of 35 percent for three consecutive years from participating in the program. Potentially, this may eliminate 178 schools nationally, 17 schools in Texas, and locally here in Houston, four schools.

In Mr. Jefferson's district in New Orleans, it may very well eliminate seven schools. The Department of Education as well as TGSCLC has imposed tighter restrictions on schools, lenders and borrowers in the program to discourage defaults and prevent fraud and abuse.

In recognition of the complexities of the delivery system, TGSCLC has been a leader in providing better information to borrowers on their loan responsibilities, toll-free numbers for students to call to receive information, publications to local high schools, and improving the aid delivery system process by electronic linkages between schools and lenders.

In addition, TGSCLC has one of the most aggressive default prevention programs in the country, involving credit checks to SLS borrowers, judgments on defaulted borrowers, collections of driver's license information to aid in skip tracing, and a very aggressive claims and pre-claims and collections staff, not to mention a full participation in the Federal IRS Offset Program, which has been very successful in collecting student defaulted dollars.

TGSCLC has been recognized by the Department of Education and the Inspector General's Office for having a very well-trained and highly effective program compliance staff. In the summer of 1989, we published some of our findings in program compliance in a publication called "School or Scandal," which attracted national attention to the problem in the student loan program and helped to encourage some of the changes that have now been enacted in the law.

We also try to exercise a strong effort to help defaulted borrowers repay their loans. We work diligently with those borrowers who demonstrate a sincere effort to repay their debt by offering the borrower a full reinstatement of his credit and his student aid eligibility after 1 year of consecutive payments.

Over \$6 million in defaulted loans have been rehabilitated this year in this program. In addition, students who were victimized by a closed school that left them in debt with no training may have a portion or all of their loan cancelled under certain Federal guidelines.

At the State level, the Texas legislature has taken steps in recent years to improve the regulation of proprietary schools and to discourage defaults. For example, students who are in default on a student loan at the time they attempt to renew their license to practice law, to practice dentistry, or cosmetology, or accounting, will have the renewal of that license revoked until such time as the borrower has made satisfactory arrangements with TGSCLC to repay the loan.

At the present time, under the able and courageous leadership of Speaker Pro Tem Wilhelmina Delco, a bill is currently being considered in the special session of the legislature to provide further regulatory and statutory oversight of proprietary schools.

This bill is in direct response to a 2-year study on proprietary schools in Texas that I would ask to be made a part of the record.

Mr. WASHINGTON. Without objection.

Mr. McCORMICK. This report was completed under the leadership of Ms. Delco and Senator Haley. Individual schools and lenders should also be recognized for the efforts that they have made over the past few years to reduce defaults.

Now, given all that is currently being done to curb student loan defaults and prevent fraud and abuse in the program, the question then remains: What more needs to be done?

The initial reaction has been to suggest that schools conduct more loan counseling sessions, that lenders increase their due diligence efforts, and that guarantee agencies conduct more program reviews.

And probably the most offensive suggestion to me personally is that we need not do anymore, simply because all the bad schools are gone. Or, two, the default rates are high simply because my school serves low income students.

As my colleague, Sam Kipp from California, often says, "We have found it not to be a case of schools serving poor students so often as it is a case of schools serving students poorly."

The most serious problems with regard to high defaults and fraud and abuse lie squarely within the proprietary school industry. From the Department of Education's own data, we see the proprietary school industry has benefitted far more than any other sector of postsecondary education in student aid.

Just from 1982 to 1988, the Guaranteed Student Loan Program volume for proprietary schools increased from \$684 million in 1982, to over \$4.15 billion in 1988. Correspondingly, student loan defaults nationally began to rise dramatically, with over 77 percent of all defaulted loans in 1989 being paid from students who attended proprietary schools.

In Texas, the TGSLC will pay out over \$200 million this year in defaulted claims, and over 67 percent of those claims come from students who attended proprietary schools. The problems associated with proprietary schools are well-documented across the country, but perhaps nowhere more shocking than right here in Houston, Texas.

One brick-laying school sent buses to homeless shelters as far away as Representative Jefferson's district in New Orleans, recruiting homeless people off the streets, putting them on the bus, driving back to Houston. And while they are on the bus, they negotiate a promissory note. And once they have signed the note, they were put in a Houston motel and abandoned.

How many more horror stories like this will we have to read about before the really important question of the 1991 reauthorization is asked? Who will have access to Title IV aid and access to what?

When I testified before the subcommittee in May, I suggested that the current system of school eligibility and certification—the triad, if you will—of accrediting agencies, State licensing agencies, and the Department of Education's own eligibility and certification function had failed and should be replaced.

In its place, I strongly recommend Congress take the following steps:

1. Eliminate accreditation as a step in the process of approving schools for eligibility for Federal student aid programs. Accrediting agencies have a role to play in setting standards for the quality of education offered by schools, and are ill-suited to serve as the gatekeeper for Federal student aid.

2. Establish minimum Federal standards for the State licensing of schools as a precondition for any school's participation in the Federal student aid programs.

3. Require the Department of Education to assume its proper oversight responsibilities and develop its own Federal standards for school eligibility.

From all of the compliance reviews that we have conducted, it is abundantly clear the best indicator of a school's ability to successfully administer the student aid programs revolve around its financial strength.

During the May hearing, Chairman Ford challenged me to provide specific suggestions as to how these standards might be imposed. I have done so at length in the written testimony I submitted to the committee, and for now I will simply summarize a few examples.

1. Require schools to submit audited financial statements for 2 previous years in accordance with generally accepted accounting principles.

2. Analyze both the school and the school owner's financials. Some of our reviews uncovered fraudulently designed levels of corporate ownership, designed to hide the true owner's identity until such time the school finally declared bankruptcy and walked away with the money.

3. Require not only a one to one ratio of assets to liabilities that is currently in the law, but also require schools to show a positive net worth. We have examples in the past where the Department of Education has literally certified a school is eligible for Title IV aid that showed operating losses for 2 prior years.

4. Provide a measure of the school's debt to net worth. This will indicate the relative amount invested in the school by creditors versus the amount of the investment by the school owner.

5. Labor market standards. We have to ask the question: Are we training students for non-existing jobs? The Higher Education Act contains no provision which requires schools to prove that their programs serve a demonstrated market need. Yet, other programs, such as the Perkins Vocational Training Act do. There should be labor market information to identify 30 to 40 State priority occupations that would receive full consideration for Title IV student aid eligibility, while programs of lesser demand might receive only a limited amount of eligibility.

In my 25 years of experience in administering Federal student aid, in my opinion there is no more important issue to resolve in reauthorization than the one I have attempted to address here today. Who is eligible under what conditions for what?

In Texas, I think we are seriously trying to answer that question in a way that will provide students full access to a quality educa-

tion in any school licensed by the State. The evidence is clear. The Triad has failed.

It is now time to move forward with more rigorous standards to ensure quality education is offered our young people in whatever type school they choose to attend, whether it be public, private or proprietary.

We must be mindful that access and quality are really two sides to the same coin. Quality without access is not quality, it is elitism. And access without quality is not access, it is mediocrity.

Thank you.

[The prepared statement of Joseph L. McCormick follows:]

**Written Testimony**

**Submitted by Joe L. McCormick  
President  
Texas Guaranteed Student Loan Corporation**

**to the  
Committee on Education and Labor  
United States House of Representatives**

**Subcommittee on Postsecondary Education**

**July 22, 1991**

### EXECUTIVE SUMMARY

This committee has heard numerous witnesses describe past abuses in the Title IV programs. Most of the problems involve the lack of oversight of proprietary schools and result in both high default rates and the exploitation of students, most of whom are from disadvantaged backgrounds. In prior testimony, I argued that the existing system of oversight -- the Triad of accrediting agencies, state licensing agencies and Department of Education -- has failed and should be replaced. I recommend that ED assume its oversight responsibility by setting federal standards for school eligibility. Subcommittee Chairman William Ford urged me to propose some standards. I have done so and they follow:

The federal government should set standards relating to the financial condition of schools and the degree to which schools provide training in occupations that are actually needed by businesses. Major abuses typically occur when schools are undercapitalized and have difficulty meeting their obligations to creditors, faculty and, most importantly, students. Analyzing TGLSC's extensive compliance reviews has allowed us to identify key indicators of financial stability. Current law also allows a tremendous amount of federally subsidized futility. What is the point in training students for non-existent jobs? Yet the Higher Education Act (HEA) contains no provision which would require schools to prove that their programs serve a real labor market need. Some models developed in other federal training programs, and in Texas, could help make this multi-billion dollar investment more productive and fair to students. By setting labor market standards, schools will help businesses meet real labor needs and students will more likely find jobs with which to repay their loans.

#### Financial Standards For Eligibility

1. Any eligibility action taken by ED (initial eligibility, recertification, new location, branch to free standing, etc. . .) should include a financial analysis to ensure that institutions receiving Title IV, HEA program funds are financially stable. (Thorough financial analysis is not currently taking place.)
2. A school that has a deficit net worth position should not be eligible to participate in Title IV, HEA programs. Schools have been permitted to gain eligibility by providing minimal financial assurances.
3. Add another element to the factors of financial responsibility, i.e., a minimum debt to net worth ratio of perhaps 4:1 or 3:1.
4. Discontinue reliance on self-reported financial statements. All institutions providing unaudited financial statements should be required to provide tax

returns for the corresponding fiscal years.

5. Before granting eligibility require schools to provide audited financial statements for the previous two fiscal years prepared in accordance with generally accepted accounting principles (GAAP) for the school and for each level of ownership.
6. Each time ED reviews or approves a school's eligibility status, a complete financial analysis of the school and all levels of ownership should occur.
7. The amount of money that schools obligate in surety arrangements should cover the financial exposure associated with the amount of federal dollars at risk.
8. Restrict a school's growth in Title IV volume to a set percentage increase over the school's volume for the previous year.
9. Set a maximum annual volume cap for schools participating in Title IV HEA programs based on the number of students and cost of education.
10. Require a school to continue with the same name, at the same location, or even with the same educational program. Any change would require the school to pass through the eligibility process under its new configuration.

#### **Labor Market Standards for Eligibility**

1. As a condition for receiving federal student aid, schools which offer only vocational training courses should be licensed by a state agency which requires schools to show the labor market need for the occupations for which they train.
2. As is done with JTPA and the Perkins Vocational Education Act, the Higher Education Act (HEA) should require states to use labor market information in identifying state priority occupations, i.e., those occupations which are in high demand and are critical to the economic health of the state.
3. States should solicit the views of business and education leaders and labor market experts before identifying priority occupations.
4. Thirty to forty occupations should be designated as high priority with a similar number designated as moderate priority. Schools which provide training in high priority occupations would be fully eligible for Title IV funds, and those in moderate priority would be eligible for 75%. Schools which meet all other standards, but do not fall within these two categories would be eligible for 50% Title IV funds.

**TESTIMONY OF JOE L. MCCORMICK****BEFORE THE HOUSE SUBCOMMITTEE ON POSTSECONDARY EDUCATION****HOUSTON, TEXAS****JULY 22, 1991****I. INTRODUCTION**

On May 30th, I offered testimony before this committee on the integrity of the Title IV student aid programs. The testimony covered several important topics including the federal budget process, deferment reduction, fraud and abuse, simplification and the plight of middle class students. One area, however, generated much attention -- a proposed reform of the school eligibility process which would (1) remove accrediting agencies from the certification process and, (2) require minimum federal standards for state licensing agencies for schools who wish to participate in the federal student aid programs. Chairman William Ford asked me what specific federal standards would I recommend for the school eligibility process. Today's testimony provides specific recommendations on this issue.

The U.S. Senate Permanent Subcommittee on Investigations accurately described the shortcomings of the use of accrediting agencies for the determination of student aid eligibility. The subcommittee found that accrediting agencies did not, as



Department of Education (ED) officials believed, view guaranteed student loan oversight as their responsibility. Operating under this misconception, ED failed to enforce any eligibility standards and provided no significant oversight of schools during the 1980's. Other problems associated with accrediting agencies include:

- the transferability of accreditation in the sale of schools
- accreditation jumping by schools
- weak control over the branching of schools
- ineffectiveness of site examinations
- exposure to costly lawsuits by accrediting bodies
- long intervals between initial accreditation and re-accreditation

The federal government should not rely on accrediting agencies to serve as gatekeepers to any of the Title IV student aid programs. That is not their role. Accrediting agencies ensure that schools are, "adhering to the published standards and having clearly defined objectives;. . ." ["Accreditation: Issues for the Eighties," Policy Controversies in Higher Education,

p. 127.] they do not pass judgement on the relevancy of the education program to the needs of businesses nor do they adequately evaluate the financial integrity of schools. As a trade association, accrediting agencies are severely limited in what they can do. Peer reviews, the threat of lawsuits for any sanctions they may impose, and competition with other accrediting agencies strips accrediting agencies of the independence needed to properly restrict eligibility to responsible educators. Independence with real authority can reside only with ED; anything less will perpetuate existing and well- documented abuses.

To eliminate abuse, contain costs, and promote labor market efficiency the ED should establish its own standards for school eligibility to participate in Title IV student aid programs. The standards should emphasize schools' financial strength and responsiveness to labor market demand. This testimony attempts to show the need for these guidelines and to briefly describe what they might entail.

## II. FINANCIAL STANDARDS FOR ELIGIBILITY

### A. Financial Considerations

The best indicator of a school's ability to successfully administer Title IV, HEA programs (even stronger than its default

McCormick -3

rate) is its financial strength. Undercapitalized schools consistently have more difficulty complying with federal regulatory requirements than other schools. Thirteen institutions left the Texas Guaranteed Student Loan Program as a result of administrative action during the past three fiscal years. Not one of these institutions met the factors of financial responsibility as set out in 34 CFR 668.13 (5 had TGSLC default rates of less than 35%).

Lack of financial resources negatively impacts all areas of a school's operations. It is difficult to retain quality personnel (instructors, financial aid officer, placement director etc.) without adequate resources. Obtaining the necessary books, supplies, and equipment for educational instruction may not be possible. Lease arrangements, utilities, garbage pick-up may all be affected. As the financial structure of the school begins to unravel, the school will often have difficulty appropriately returning, releasing, and retaining proceeds. Delayed payment or nonpayment of refunds to lenders on behalf of borrowers is a frequent occurrence. Higher incidence of fraudulent activity are often associated with financially weak institutions.

According to 34 CFR 668.82, schools act as a fiduciary in the administration of Title IV, HEA funds. Eligible schools are required to act in accordance with the highest standard of care and diligence with regard to a student's Title IV funds. Yet, this industry has done little to control the abuses of owners who

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literally steal Title IV funds from students. Owners avoid their fiduciary responsibilities by establishing levels of corporate ownership to obscure the true ownership of their schools and by declaring bankruptcy to avoid their financial responsibilities. Schools go bankrupt and close and the previous owners simply buy the ED ID number of an existing school and begin the process again.

Financially weak schools harm students first by depriving them of the education they have contracted to receive. Without that education, students are unable to secure suitable employment. Repayment of student loans is often difficult, if not impossible, for students who do not increase their employment skills through educational opportunity. Nonrepayment of student loans results in default. When a student defaults on a student loan his or her credit is ruined, eligibility for student financial aid is terminated, IRS refunds can be withheld, and litigation may result. Students pay dearly for the weaknesses of a system which was created for their assistance.

### B. The Factors of Financial Responsibility

Eligibility to participate in Title IV programs should be predicated upon a strong financial position. Any eligibility action taken by ED (initial eligibility, recertification new location, branch to freestanding, etc.) should include a

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financial analysis to ensure that institutions receiving Title IV, HEA program funds are financially stable.

ED has promulgated regulations regarding the financial responsibility of schools. According to 34 CFR 668.13 (factors of financial responsibility), schools with the following are not considered to be financially responsible:

1. Under its basis of accounting, it
  - (i) Has had operating losses over at least its two most recent fiscal years; or
  - (ii) Had, for its latest fiscal year, a deficit net worth. A deficit net worth occurs when the institution's liabilities exceed its assets;
2. Under an accrual basis of accounting, it had, at the end of its latest fiscal year, a ratio of current assets to current liabilities of less than 1:1;
3. Under a fund accounting system its unrestricted current or operating fund reflects sustained material deficits over at least its two most recent fiscal years.

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The ratio of current assets to current liabilities is one that is familiar; it provides information regarding a school's cash flow. This is the first indicator that a school may have a problem meeting its current obligations. The limitation of this measure is that it only provides information about a school's ability to meet its current obligations. It should not be used as a determination of the school's complete financial situation.

Operating losses for two consecutive fiscal years is a strong indicator that a school is having significant difficulty managing its financial affairs. A trend of operating losses (at least 2 fiscal years) indicates that a company is moving toward insolvency. According to federal regulations, such a school is not financially responsible and is not eligible to participate in Title IV, HEA programs.

A deficit net worth in a school's financial statements indicates that the school's ownership has no equity or negative equity in the school. The creditors, in fact, are providing the capital necessary to enable the school to operate. A school that has a deficit net worth position should not be eligible to participate in Title IV, HEA programs.

Consider adding another element to the factors of financial responsibility; a minimum debt to net worth ratio. The debt to net worth ratio identifies the amount of money put into a company

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by the creditors compared to the amount of money put into a company by the owners. If a school has a 20:1 debt to net worth ratio, it means that for each dollar invested by the owners the creditors invested 20 dollars. This ratio measures a creditor's protection from loss. It is derived by dividing the company's total liabilities by the company's total equity. By comparing the number of dollars invested by creditors to the number of dollars invested by owners, the financial risk associated with investing in a particular company can be determined. The higher the ratio, the less protection afforded the creditors.

With that said, realize that the largest group of creditors at a school are students. Students are unsecured creditors and have little, if any, protection from loss in the event of bankruptcy. Other creditors generally protect their claims with collateral. Ultimately the costs associated with the participation of financially weak schools are borne by the taxpayers. The federal government has a responsibility to protect the interests of students and taxpayers by controlling the participation of financially weak schools in Title IV programs.

While other industries have minimum capital requirements which are used to assess a company's financial position, none exist for the proprietary school industry. "Proper" proportions of debt to net worth may vary from industry to industry.

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However, a preliminary analysis of schools applying for participation in the TGSLP during FY90 indicate that 3 or 4 to 1 is an appropriate level to begin discussing as a threshold ratio. Congress should establish minimum capital requirements for participation in Title IV, HEA programs.

### C. Financial Statements

Self-reported financial statements are being accepted by the Department of Education as documentation of financial strength. If the owner of the school certifies that the financial statements provided to ED are true and correct, self-reported financial statements are considered acceptable. This practice should be discontinued.

When a school becomes eligible to participate in Title IV programs, it has unlimited access to federal dollars. A high level of scrutiny should be associated with obtaining and retaining that eligibility. Congress should specify in statute that before a school can apply for Title IV eligibility or any change to its eligibility status (branch to freestanding, recertification, etc.) it must provide:

- Audited financial statements for the previous two fiscal years prepared in accordance with generally accepted accounting principles (GAAP) for the school.

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An alternative for small proprietorships or partnerships would be the provision of unaudited financial statements prepared by a certified public accountant. Unaudited statements should be accompanied by tax returns for the corresponding fiscal years for verification purposes. Partners and sole proprietors should be required to provide personal financial statements as well.

- Audited financial statements for the previous two fiscal years prepared in accordance with GAAP for each level of ownership (parent companies) of the school. Generally, ED does not analyze the financial stability of parent companies of schools applying for eligibility.

A complete financial analysis of the school and all levels of ownership should occur before the school is allowed to apply for Title IV eligibility. Also, each time ED reviews or approves a school's eligibility status, a complete financial analysis of the school, and all levels of ownership should occur. If the school or any level of its ownership, is financially unstable, the school should not be allowed to apply for, or continue to hold, Title IV eligibility. By taking a strong stance with regard to financial stability, ED can avoid much of the administrative and financial burden associated with doing

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business with insolvent institutions.

#### D. Surety Arrangements

Bonds, irrevocable letters of credit, and other surety arrangements are often made with ED when a school does not meet the factors of financial responsibility. These surety arrangements are not administered in a way which benefits students, guarantee agencies, the Department of Education, or taxpayers.

Schools are successfully negotiating to surety arrangements which are insufficient to cover Title IV funds which are at risk. Instead of requiring schools to be financial sound, ED is allowing insufficient surety arrangements. The surety program, as it exists, is of benefit only to financially unstable schools. This program was created for the benefit of students not schools. It should be made clear that only financially stable schools will have access to federal dollars set aside for Title IV, HEA programs.

#### F. Volume Control

Rapid growth is also an indicator that a school will have difficulty administering Title IV programs. As previously mentioned, eligible schools have access to unlimited Title IV

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program funds. By not establishing volume controls, Congress and ED have made these programs very appealing to the unscrupulous. To the small Mom & Pop organizations, the Title IV programs must appear to be some type of treasure trove.

Unscrupulous schools work to obtain as many dollars as possible in a short period of time, leaving the taxpayer holding the bag. Small schools often reach the same end, but without the malicious intent. Schools that grow too quickly may not have the ability to put into place the administrative controls necessary to ensure that federal dollars are being handled appropriately.

Growth can be controlled by Congress and ED. The statute should be revised to include language which restricts a school's growth in Title IV volume to a set percentage increase over the school's volume for the previous year. In addition, Congress should set a maximum annual volume cap for schools participating Title IV, HEA programs based on number of students and cost of education.

#### **G. Two Year Rule**

ED identification numbers are bought and sold like any other goods and services in the market place. According to federal regulation, schools are required to be in existence for at least two years to become eligible to receive Title IV, HEA program

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funds (see 34 CFR 600.4, 600.5, 600.6, 600.7). In practice, the two year rule is not a factor. Schools that apply for Title IV eligibility are not required to provide any documentation which substantiates that the school was in fact in existence for two years according to the regulatory definition.

Avoidance of the two year rule is accepted in ED's Eligibility and Certification Branches. A purchaser can buy a school, change its name, location, and even type of educational program and be considered the same institution by the Department of Education.

34 CFR 600.31 allows a previously eligible institution to be considered the same institution if the new owners agree to:

- Be liable, or jointly and severally liable, for all HEA program funds which the institution received and improperly expended before the effective date of the change of control.
- Abide by the institution's policy regarding refunds to students in effect before the effective date of the change of control.
- Honor all student enrollment contracts in effect before the effective date of the change of control.

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- Submit financial statements.
- Submit an audit for the institution's latest complete fiscal year prepared by a licensed certified public accountant.
- Submit additional financial documents if requested by the Secretary.
- Provide for the retention of all records required in connection with its designation as an eligible institution.

As you can see, there is no provision in federal regulation that would require a school to continue with the same name, at the same location, or even with the same educational program. As a result, very few schools are affected by the two year rule.

#### H. Summary of Recommendations For Financial Standards For Eligibility

1. Any eligibility action taken by ED (initial eligibility, recertification, new location, branch to free standing, etc. . .) should include a financial analysis to ensure that institutions receiving Title IV, HEA program funds are financially stable. (Thorough

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financial analysis is not currently taking place.)

2. A school that has a deficit net worth position should not be eligible to participate in Title IV, HEA programs. Schools have been permitted to gain eligibility by providing minimal financial assurances.
3. Add another element to the factors of financial responsibility, i.e., a minimum debt to net worth ratio of perhaps 4:1 or 3:1.
4. Discontinue reliance on self-reported financial statements. All institutions providing unaudited financial statements should be required to provide tax returns for the corresponding fiscal years.
5. Before granting eligibility require schools to provide audited financial statements for the previous two fiscal years prepared in accordance with generally accepted accounting principles (GAAP) for the school and for each level of ownership.
6. Each time ED reviews or approves a school's eligibility status, a complete financial analysis of the school and all levels of ownership should occur.

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7. The amount of money that schools obligate in surety arrangements should cover the financial exposure associated with the amount of federal dollars at risk.
8. Restrict a school's growth in Title IV volume to a set percentage increase over the school's volume for the previous year.
9. Set a maximum annual volume cap for schools participating in Title IV, HEA programs based on the number of students and cost of education.
10. Require a school to continue with the same name, at the same location, or even with the same educational program. Any change would require the school to pass through the eligibility process under its new configuration.

### **III. Labor Market Standards For Eligibility**

#### **A. Labor Market Considerations**

Student financial aid promotes equal education opportunity in a very direct and meaningful way -- by lowering the cost of college to students. To the individuals who are assisted by these funds, federal support represents the critical difference between achieving a postsecondary education and foregoing one.

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In fiscal year 1991, the federal government spent \$10.9 billion on student aid. Since the last reauthorization of the Higher Education Act in 1986, over \$55 billion in federal aid has allowed hundreds of thousands of students achieve their educational goals. (Trends in Student Aid: 1980-1990, The College Board, August, 1990, p. 8 and Education Daily, July 2, 1991, Special Supplement, p. 5.) The level of commitment is impressive as have been the results; America has the most accessible higher education system in the world. But perhaps we should consider, briefly, some of the costs of maintaining such access, and suggest ways to contain costs and improve the match between occupations trained by schools and occupations demanded by business.

Proprietary school owners have been the chief beneficiaries of the policy of open access. Overall guaranteed student loan program volume for proprietary schools increased from \$684 million to 4.15 billion between 1982 and 1988. (Abuses in Federal Student Aid Programs, report by the Permanent Subcommittee on Investigations of the Committee on Governmental Affairs, U.S. Senate, May, 1991, p. 7.) With the increase in proprietary school borrowing has come a staggering default cost. From 1983 to 1991, overall program losses due to loan defaults grew from \$444.8 million to an estimated \$3.6 billion -- a 809 percent climb! This financial wallop has reverberated throughout the student loan system and has undermined the confidence of

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lenders. But those most directly victimized have been proprietary school students. Senator William Roth, ranking minority member of the U.S. Senate Committee on Governmental Affairs eloquently captured the nature of this cruelty in his statement at the Nunn hearings on fraud and abuse:

Rather than allowing these young people to improve themselves, these schools actually leave [them] in a worse position than when they started. Because of the deceptive practices of such schools, these students have to pay for an education they never received. Lacking proper training, [they] are not able to get jobs which they can repay [their] federally guaranteed loans and thus suffer the added humiliation of seeing their credit ratings destroyed in the process.

(Abuses in Federal Student Aid Programs, report by the Permanent Subcommittee on Investigations of the Committee on Governmental Affairs, U.S. Senate, May, 1991, p. 11.)

The system of financing higher education through student aid breaks down if the students aren't eventually able to find good jobs. Each year the federal government makes a multi-billion

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dollar investment in human capital, but nowhere in the Higher Education Act does it require anyone to show that jobs will be available in the fields for which the student trains. This is not accepted in other federal training programs.

**B. Establishing a Precedent: Perkins Voc Ed Act and Job Partnership Training Act**

The recent reauthorization of the Perkins Vocational Education Act requires state boards to consider the relevancy of training programs to the market demand for certain occupations. Section 116 of the Perkins Vocational and Applied Technology Education Act Amendments of 1990 states:

Each State board receiving assistance under this Act shall conduct an assessment using measurable objective criteria developed by the State board to assess program quality. Such criteria. . . shall use information gathered by the National Occupational Information Coordinating Committee and if appropriate other information. Such criteria shall include such factors as-- . . . (8) the relevance of programs to the workplace and to the occupation for which students are to be trained, and the extent to which such programs reflect a realistic assessment of current and future labor

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market needs. . . (10) basic and higher order current and future workplace competencies which will reflect the hiring need of employers. . .

(As quoted in: National Occupational Information Coordinating Committee Memorandum No. 90-25, November 27, 1990, p. 1)

Applicants for the Job Training and Partnership Act (JTPA) block grants are evaluated, in part, on how well the training programs serve target occupations. JTPA applicants must annually show how they meet local labor market needs:

Training provided with funds made available under this Act shall be only for occupations for which there is a demand in the area served or in another area to which the participant is willing to relocate, and consideration in the selection of training programs may be given to training in occupations determined to be in sectors of the economy which have a high potential for sustained demand or growth.

[Job Training Partnership Act Title I, Part C, Section 141 d (1);

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This extensive effort is required by law to ensure sensitivity to labor markets. These two programs -- Perkins Voc Ed Act and JTPA -- cost the federal government less than \$3 billion for fiscal year 1990. Similar criteria should be adopted in the Higher Education Act and applied to schools which explicitly claim to offer only vocational training.

### C. Contribution Towards Default

The problem of defaults and unscrupulous schools are exacerbated by the lack of controls which allow schools to remain eligible for large amounts of federal money without ever having to prove that their programs fill a need in the business world. A recent study of borrowers from public and private technical training schools in Texas conducted by researchers at the University of Texas at Austin, showed that success in finding a job was directly related to the repayment of loans. Over three-fourths of repayers became employed within 3 months of leaving the educational program, while only 44 percent of defaulters had found work. (L. Lein, R. Rickards, and J. Webster, Student Loan Defaulters Compared with Repayers: A Case Study of Texas, TGSIC, July 1, 1991, p. 6) This same study reported that of the borrowers who were employed, 65 percent of repayers had found jobs related to their schooling, while only 30 percent of defaulters could find employment related to their educational programs. (Lein, Rickards, and Webster, p. 6) [Note: Since only

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the more stable defaulters were located for the survey, the actual divergence between repayers and defaulters is probable even more significant.]

The federal government is not doing any favor for the disadvantaged student seeking to better himself/herself by allowing that student to become heavily indebted and trained for a dead-end occupation. Since the federal government certifies the school's eligibility and the state approves the schools' license, both share an obligation to protect that disadvantaged student.

#### D. Efforts Through State Licensing: Texas

In Texas we are trying to offer that protection. House Speaker Pro Tempore Wilhelmina Delco introduced a comprehensive bill to better regulate proprietary schools in Texas. (Although the bill was unsuccessful in the regular session we are hopeful that the bill will emerge in the current special session.) This bill would require schools to provide prospective students with information regarding the (1) starting range and reported average salaries for prior year's graduates, (2) current job placement and employment rates, and (3) market and job availability. [Section 1.17 subsections 32.402 (12), (13), and (19)] Further, the bill would authorize the state agency to use labor market information in evaluating license renewals and new license

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applications,

Section 32.404 (b) In determining whether to renew a license to operate, the administrator shall consider the completion, placement, and employment rates of students of the courses. (c) Before a school may begin offering a new course of study for students, the school must show the administrator the opportunity for jobs for graduates of the course and the possibility of placement or employment.

[Texas H.B. 2861 by Delco, proposed Texas Proprietary School Act, 1991.]

These are the types of standards which are necessary to protect students and lower defaults. But Texas and most other states have no such laws in place. Since defaults have little effect on state licensing agencies, states have insufficient incentive to pass strong regulatory legislation. Given its annual multi-billion dollar investment, the federal government must step in by adopting rigorous standards for eligibility which include labor market criteria. Establishing minimum federal standards for state licensing agencies would be a step in the right direction.

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Establishing market sensitive eligibility requirements will not only help reduce defaults, but will also promote a better trained workforce. America is experiencing a mismatch of skills to jobs. New York Telephone recently tested 57,000 applicants only to find 2,100 had the needed skills for its posted positions. [America's Choice: High Skills or Low Wages], National Center on Education and the Economy, Rochester, NY, 1990, p. 23.] In California, aircraft manufacturers have developed joint training programs because outside training providers were not meeting their need for skilled workers. [America's Choice: High Skills or Low Wages], National Center on Education and the Economy, Rochester, NY, 1990, p. 23.]

To meet these labor market needs, certain occupations must be designated as priorities. Proper incentives need to be developed to encourage schools to fill these priority occupations. In the absence of such incentives, schools will continue to offer courses in catchy, easy-to-market fields such as bartending, casino dealing and truck driving -- regardless of the level of demand for these occupations.

#### **E. Recommendations**

Labor market analysis can be incorporated into the eligibility process in a variety of ways. Strict standards could be established by ED in consultation with labor market experts

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which cover average wages, unemployment rates, ratio of student slots to projected number of job openings or other criterion deemed important. Since labor markets vary greatly by state, perhaps the state-based approach used in Voc Ed and JTPA is most appropriate. State labor market standards could be required of state licensing agencies or government could be given the authority to establish these guidelines within general parameters set by ED. The quality of state-specific labor market information has greatly improved over the past five years. Each state now has a comprehensive Occupational Information System that the State Occupation information Coordinating committees operate; those could prove helpful to whoever establishes state standards.

Instead of setting strict numerical standards -- which may be inappropriate for some states -- ED could outline procedures in accordance with which states, through government of state licensing agencies, would establish labor market standards. The method by which the State of Texas determines priority occupations might serve as a model for how a state-based system might work.

Under state law, the State Board of Education must develop a master plan for secondary and postsecondary vocational education. [(Tx. Ed. Code Sec 21.113(b))] A central feature of this masterplan is the development of a list of Priority Occupation.

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The first of three steps in this process is the creation of a "starter list" using objective analysis based upon the most current labor market information. The starter list has "occupation with at least 500 projected annual average openings to 1995, are not expected to experience a decline in overall growth, have a training time within a period of over three months through four years, and have a wage rate of at least \$6 per hour." Memorandum from Commissioner of Education for the state of Texas, William N. Kirby, to the Texas State Board of Education, January 19, 1991, p.1).

A panel of labor market experts reviews the starter list and makes additions or deletions as necessary. This panel is distributed according to public/private sector affiliation, sex and ethnicity and geographic region. Finally, the State Board of Education maintaining discretion regarding occupations placed on the final list. This process generates a list of 30-40 occupations considered crucial to the economic well-being of the state.

The state tries to focus its resources on educating students for work in these Priority Occupations. Priority Occupations remain on the list for five years and then must be reevaluated. Occupations not on the list remain eligible for state resources, but providers must supply convincing additional information on why their fields should receive priority support. The process

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keeps education providers responsive to the most current labor market trends without completely cutting off training providers who have substantial capital investments in non-priority occupations.

The Triad has failed. Accrediting agencies were never designed to police student aid administration and should not serve as the gatekeepers to the federal programs. The federal government should assert its authority in this area and establish standards for the public good.

For schools explicitly offering occupational training, Title IV, HEA eligibility and recertification should be as rigorous as the standards set up for other federal training programs and by several states. Congress should consider creating a system of tiered eligibility. Schools that clearly train students for priority occupation should have full access to Title IV funds; other schools which train students for occupations which show less promise and increased likelihood for default would be eligible for lesser amounts. Perhaps three tiers would be needed: high, medium and low priority occupations with corresponding degrees of eligibility of 100%, 75% and 50%. Minimum standards could also be set to prevent schools from abusing federal money and to protect student consumers.

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## F. Conclusion

The HEA provides billions of dollars each year to encourage students to pursue postsecondary education training. An industry of training providers has responded to this federal support by creating education programs which attract hundreds of thousands of students each year. But with no direction from the federal government, training providers have no responsibility to train students for occupations with sufficient job opening. Many student enroll, agree to a substantial debt, and study hard only to find no job openings when they graduate. Feeling ripped-off by their school and too poor to meet their loan payments, these students typically default on their federally backed loans. At the same time, employers -- like those California aircraft manufacturers -- can't find skilled workers for their businesses. Precedents exist for the use of labor market standards in federal and state training programs and processes are in place for their implementation. The federal government should own up to their responsibility for this massive investment in the future workforce.

Student loans can help provide equal educational opportunities to needy students. In the happiest of scenarios, the student achieves his/her educational goals, finds a good job and repays the loan. We are very fortunate that this is the typical course of events. But student loans also entail risk and

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too often lead to financial ruin. A worker was laid off from a job he had held for six years. Desperate to support his family, he enrolled in a truck driving course. After maintaining perfect attendance, averaging 94% for the course and scoring a 100% on the Department of Transportation exam, this student still could not find a job. Employers wanted workers with at least one year of truck driving experience. The school provided no such apprenticeship program. The student was left off worse than when he began - bankrupt and betrayed. Please appreciate the frustration I feel when I read his letter -- and the dozen others I receive each month -- "... we owe a lot of money for nothing!... How long will hard working families like mine be at the mercy of these deceptive schools? ... Who can help?... Can you help us? If you cannot, can you at least try to prevent this from happening to other unsuspecting families?" [Letter from Rick Gatewood, former MTA Truck Driving School student, June 13, to Lloyd Bentsen, et al.]

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# Joint Interim Committee on Proprietary Schools

Room 211, Reagan Building  
P.O. Box 2910

Austin, Texas 78768-2910  
(512) 463-0782

**Co-Chair:**  
Representative Wilhelmina Delco,  
House Higher Education Committee Chair

Senator Bill Haley,  
The Senate of Texas

**Committee Members:**  
Dr. Tom Anderson,  
Texas Education Agency

Bruce Aumack,  
PMA Corporation

Lorin Boswell,  
Attorney at Law

Dr. Dale Campbell,  
Texas Higher Education  
Coordinating Board

Thomas E. Colvin,  
DeVry Institute of Technology

Representative Harold V. Dutton,  
Texas House of Representatives

Paul Ellis,  
Jack NGA Executive Secretary School

Representative Ernestine Glassbrenner,  
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Dr. Lee Murdy,  
Compug Computer

Senator Carl Parks,  
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Lucien Rouse,  
Bell Helicopter Textron

**Staff:**  
Greg Williams,  
Executive Director

Judy Sexton,  
Administrative Researcher

## "ACCESS ACHIEVEMENT AND ACCOUNTABILITY"

### A Report of the JOINT INTERIM COMMITTEE ON PROPRIETARY SCHOOLS

Submitted to:  
The Seventy Second Legislature of Texas  
February 25, 1991

## LETTER OF TRANSMITTAL

The Honorable Ann Richards, Governor of Texas  
 The Honorable Bob Bullock, Lieutenant Governor of Texas  
 The Honorable Gib Lewis, Speaker of the House of Representatives  
 Members of the 72nd Legislature of Texas

Members of the 72nd Legislature:

On behalf of the thirteen members of the Joint Interim Committee on Proprietary Schools, we are pleased to submit this report of our findings and recommendations, regarding the proprietary school community in Texas.

This Committee has made a comprehensive study of the issues set forth in the "Charge" required by Senate Bill 417, passed by the 71st Legislature. Our study included input from proprietary schools in this State; from agencies which license, regulate, or monitor proprietary schools in Texas, and other states; from various branches of the United States Department of Education, and regional and state educational institutions and governing entities; from the accrediting bodies in the nation; and from media and business communities interested in improving the proprietary school environment. We are gratified by the support we received from a vast number of persons affiliated with the public sectors of government, private sectors of enterprise and industry, academic arena, proprietary school community, and the interested citizenry of Texas and the country.

This wide array of cooperation lead to the formulation of the recommendations for action contained herein. The report is a joint endeavor of many dedicated parties who made valuable contributions to our study; and who share in our goal to improve the access, achievement and accountability of proprietary school training for those Texans seeking this alternative approach to an enhanced education and quality of life.

We believe this Report of the Joint Interim Committee on Proprietary Schools will be of benefit to you, and to the citizens of our great State of Texas. And we trust you will receive it in the same "spirit of excellence" it embodies for proprietary school education in Texas, as is genuinely proffered by each of us who are proud to respectfully deliver it to you, on this 25th day of February, 1991.

*Wilhelmina Delco*  
 Representative Wilhelmina Delco  
 Co-chair

*Bill Haley*  
 Senator Bill Haley  
 Co-chair

Letter of Transmittal, cont'd.

Members of the Joint Interim Committee on Proprietary Schools:

Tom Anderson  
Dr. Tom Anderson

Paul H. Ellis  
Paul Ellis

Bruce Aumack  
Bruce Aumack

Ernestine Glosbrenner  
Rep. Ernestine Glosbrenner

(not present)

Atty. Lorin Boswell

Dr. Lee Hardy  
Dr. Lee Hardy

Dr. Dale Campbell  
Dr. Dale Campbell

(not present)

Sen. Carl Parker

Thomas E. Colvin \*\*\*  
Thomas E. Colvin

Lucien Rouze  
Lucien Rouze

(not present)

Rep. Harold V. Dutton

\*\*\* Mr. Colvin voted "NO"  
on Recommendations #2 & #3,  
in the section entitled  
Quality in the Educational  
Experience.

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**PROLOGUE**

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## MISSION STATEMENT

### *The "Charge" to the Committee*

The Texas Education Agency Sunset Legislation S.B. 417, Article IV. Proprietary Schools. Section 4.33 - "Creates an Interim Committee to evaluate the system used to regulate courses offered by proprietary schools. The Committee must report findings to the 72nd Legislature. The Committee must consider the policies of the Texas Education Agency, the Texas Higher Education Coordinating Board, and other involved agencies, regarding proprietary school programs; including on-site evaluation of facilities, qualifications and continuity of staff, student admission and recruitment procedures, placement of proprietary school graduates, counseling and support services for students, loan default rates, dropout rates, reasonableness of requiring schools to distribute cost comparison information, consistency of course hour lengths and content between proprietary schools and other schools, and uses of degrees by proprietary schools. The Committee will consist of the House Higher Education Committee Chair; the House Public Education Committee Chair; the Senate Education Committee Chair; the Coordinating Board Chair; the Texas Education Agency Commissioner; one senator, one proprietary school owner, and two public members, appointed by the Lieutenant Governor; and one representative, one proprietary school owner, and two public members appointed by the Speaker".

The members of the Joint Interim Committee on Proprietary Schools are: Co-chair, Representative Wilhelmina Delco, House Higher Education Committee Chair; Representative Ernestine Glossbrenner, House Public Education Committee Chair; Senator Carl Parker, Senate Education Committee Chair; Dr. Dale Campbell, Assistant Commissioner for Community Colleges and Technical Institutes, Texas Higher Education Coordinating Board; and Dr. Tom Anderson, Deputy Commissioner, Texas Education Agency. Members of the Committee appointed by the Lieutenant Governor are: Co-chair, Senator Bill Haley; Thomas E. Colvin, DeVry Institute of Technology; Dr. Lee Murdy, Compaq Computer Corporation; and Bruce Aumack, IBM Corporation. Members appointed by the Speaker are: Representative Harold Dutton; Paul Ellis, Jacki Nell Executive Secretary School; Lucien Rouze, Bell Helicopter Textron; and Lorin Boswell, Attorney at Law.

## INTRODUCTION TO PROPRIETARY SCHOOLS

Each year, over 75,000 students enroll in the over 1800 proprietary schools in Texas. These "for-profit" institutions train students in a variety of technical and vocational areas with the goal of infusing "work-ready" applicants into our ever increasingly specialized job market. Private proprietary schools offer coursework in accounting, computer science, cosmetology and barbering, welding, auto mechanics, fashion merchandising and design, secretarial and office occupations, electronics, and plumbing. They educate assistants in the medical, dental, legal and veterinary fields. Students become skilled in building maintenance, air conditioning, heating and refrigeration, real estate, mortuary science, drafting, securities, insurance, travel, art, landscaping, interior design, and communications. They may also be trained as bartenders, models, actors, law enforcement officers, printers, or commercial truck drivers.

One-third of the private career training schools in Texas are regulated and licensed by the Texas Education Agency; the remainder by the Texas Cosmetology Commission, Board of Private Investigators and Private Security Agencies, Commission on Law Enforcement Officer Standards and Education, Real Estate Commission, Board of Barber Examiners, Department of Health, Polygraph Examiners Board, and the Texas Funeral Services Commission. Schools exempted from regulation include, but are not limited to, tax-supported or non-profit schools and colleges and universities awarding higher degrees. The "triad" of regulatory authority, extending beyond the state licensing agents, includes the U.S. Department of Education and the various accrediting bodies across the nation. Proprietary schools are privately funded. Very little state money is used to subsidize the operation of these schools; and the cost of their regulation comes solely from fee assessments on the schools. Students of proprietary schools have access to federal funds in the form of grants and loans; and many schools participate in the Guaranteed Student Loan Program. The Texas Guaranteed Student Loan Corporation is a public non-profit corporation set up to act as guarantor on student loans.

To meet the challenges of today's volatile working environment, one must be able to acquire marketable skills and update professional training. The proprietary school system has shown an ability to respond rapidly to the needs of industry and communities. And many students have achieved meaningful employment as a result of the training they were provided by this system. Private vocational-technical schools offer a diverse job-oriented program agenda, designed for both men and women dedicated to the pursuit of exciting and rewarding careers which can best be achieved by education beyond the traditional secondary level, yet outside the directives of junior or senior colleges.

There are a number of excellent proprietary schools in Texas, accountable for the delivery of critical services to a population which, appropriately, seeks this optional avenue to post-secondary education.

The Joint Interim Committee on Proprietary Schools welcomed the cooperation and support of many dedicated parties involved with proprietary schools who desire to share in the accomplishment of our goal to improve the quality of proprietary school education for all the citizens of Texas.

## PREAMBLE

To the credit of the Legislature, in its wisdom and foresight when promulgating the "Charge" to the Joint Interim Committee on Proprietary Schools, the ten areas mandated for study were those which arose most frequently in the testimony of over one-hundred persons appearing as witnesses at eight public hearings. Our comprehensive study included site-visits to fourteen proprietary schools. Several work sessions and sub-committee meetings were held; and members reviewed over two-hundred documents impinging on virtually every aspect of the proprietary school system in Texas. Our inquiry into this rapidly evolving industry revealed issues of concern peripheral to those committed in the Charge. Thus, we have included sections on the Number of Agencies Governing Schools, Financial Accountability, and Consumer Information.

The Committee used a collaborative approach in addressing the thirteen issues of our focus. We recognize that success in postsecondary education is keyed to three major components: access, achievement and accountability. Herein, we evaluate the responsibility of institutions to provide access to education; we trace the subsequent achievement of those trained to garner productive employment; and we examine the accountability of schools in their management capacity and the status of their financial apparatus, and of governing bodies in their oversight and regulatory functions. The denouement of the Epilogue includes our goals and priorities for meeting the challenges ahead. And, we offer a resolution enabling us to continue our monitoring of the proprietary school system in Texas.

Our initial study has focused on regulation by the Texas Education Agency as authorized in the Senate Legislation of Senate Bill 417. The reader is apprised that the Texas Proprietary School Act, most recently amended by S.B. 417, applies to those schools regulated by the Texas Education Agency. These are only one-third of the private career schools operating in the state. Our mandate was to examine the oversight functions of all agencies involved in proprietary school regulation. To do otherwise would have been to side-step our responsibility to the citizens of Texas. In this light, we have directed our recommendations, in most instances, to "licensing agencies" that issue licenses to operate proprietary schools under the auspices of the State of Texas. Clarification in the section of this report entitled Number of Agencies Governing Schools details our intent in this regard. More time is required if we are to accomplish a thorough exploration of licensing boards and commissions in aggregate. We seek the benefit of future inquiry in the resolution to facilitate the ongoing process necessary if we are to reform and refine this volatile arena of education in Texas.

Proprietary schools are uniquely positioned to open doors to students who otherwise might have no chance for success. They are, as "for-profit" institutions, symbolic of certain values held in high esteem in America. It is, however, important for proprietary school operators to understand that the "rights" which enable them to participate in a free-enterprise system must justly encumber them with the responsibility attendant on those rights. If they are to partake in the "American Dream", then their endeavors must be couched in a philosophy that does not in any way preclude the fulfillment of that dream by those who come in search of the "embellished" quality of life often promised to them.

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Forward strides will be made when the TEA Sunset Legislation of Senate Bill 417 is fully implemented. Yet, the evidence in our study points to an imperative for formulating solutions now to certain problems we encountered, and then seeing to their discharge. Surely, this will positively effect students and taxpayers, and thwart the activities of unscrupulous operators who impede the ability of legitimate schools to exercise their proper roles. Many proprietary system participants join with us in our task to vouchsafe the reasonable expectation for education, and to maintain the vigilance required if we are to protect and expand the delivery of quality vocational and technical training programs. Their concern and assistance was an added value to our work and enhanced the credibility of the recommendations we pose.

**ACCESS TO EDUCATION**

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## THE NUMBER OF AGENCIES GOVERNING PROPRIETARY SCHOOLS

There are many entities involved in the regulation of proprietary schools; including the U.S. Department of Education, the Texas Education Agency, the Texas Guaranteed Student Loan Corporation, the Texas Higher Education Coordinating Board, several accrediting agencies, state commissions, boards and licensing agencies. This fragmented approach makes it difficult to regulate the industry effectively.

Many proprietary schools participate in federally guaranteed student loan programs, as do traditional junior and senior public and private institutions. The Texas Guaranteed Student Loan Corporation is a public non-profit corporation set up by the Legislature to act as guarantor on student loans. A guarantor is necessary because the U.S. Department of Education will not deal directly with the schools or with the participating banks. In addition, the USDE does not always reinsure 100 percent, leaving the guarantor with a portion of the liability for defaults. TGSLC revenues come primarily from guarantee fees on loans and federal participation. The Corporation uses these revenues for administrative expenses and for reserves to cover defaulted loans. The Texas Guaranteed Student Loan Corporation has guaranteed almost \$3 billion in student loans since 1981.

A proprietary school must go through a three-step process to become eligible for participation in the guaranteed student loan programs. The first step in the triad of oversight comes when a school applies to a state agency for a license to operate. Once licensed, the school may apply to an accrediting agency. There are several major accrediting bodies with operations in various regions of the country, and segmented among several fields of specialization such as cosmetology, trade and technical schools, health care providers, colleges and universities, continuing education and others. The accreditors promulgate standards for proprietary schools, but association by a school is voluntary; and accreditation does not carry with it "policing" or enforcement provisions on the schools. The Accrediting Agency Evaluation Branch and COPA determine the eligibility of schools to participate in the federal grant and loan programs. The school must have the authority of the state to operate and be accredited. The state licensing agencies and the U.S. Department of Education share regulatory authority over schools. Our study showed that in the past that authority has been limited in many instances and regulation has not been effective.

Approximately one-third of the proprietary schools in Texas are regulated by the Texas Education Agency (TEA). The remainder of the over 1800 proprietary schools are regulated by various state boards and commissions which operate in a fairly autonomous manner; yet like TEA, they rely on fee assessments on the schools they regulate for sustenance. Proprietary school regulation, prior to the 71st legislative session, was based on minimal compliance with minimal standards. This resulted in an increase in the number of low quality schools and had a debilitating effect on students who were not being provided with an education of quality or usefulness in the world of work. Along with a downturn in the economy, failed efforts to "weed-out" the scoundrels by effective and enforceable regulation has been a significant cause of the climb in federally guaranteed student loan defaults. It has placed an additional burden on the taxpayer, who was required to contribute, in fiscal year 1989, over \$2 billion for defaulted student loans.



Recently, the U.S. Department of Education, the Texas Guaranteed Student Loan Corporation, the Texas Higher Education Coordinating Board, and the Texas Education Agency have taken action to strengthen the regulation of proprietary schools. This has resulted in several Texas schools being barred from participation in federally guaranteed student loan programs. The "Charge" to the Joint Interim Committee on Proprietary Schools was an added step in the right direction. We were asked to examine and evaluate the proprietary school system in Texas; and then, to offer recommendations to the Legislature that would improve the regulation and thus the quality of proprietary schools. Our review identified several areas where regulation should be strengthened; including disclosure of information to prospective students, regulation of courses and programs, financial regulation, sanctions available to strengthen regulation, and inconsistency in regulation.

Proprietary schools cannot be self-policing and need to be regulated. The Texas Proprietary School Act, which is the governing instrument for schools within the jurisdiction of the Texas Education Agency, is a consumer protection act. The source of income for proprietary schools is the consumer - the student. As "for-profit" institutions it might be difficult, without regulation and enforcement provisions, for schools to discontinue practices that had resulted in additional income. Certainly, proprietary schools should begin with self-governance. And we have evidence that many schools are making a commitment to secure their industry's reputation through self-imposed standards. For the state's part there must be tighter licensing standards, aggressive enforcement of the regulations already on the books, and a more diligent public awareness campaign.

In passing Senate Bill 417, the Texas Legislature took a giant leap forward to bolster the regulation of those schools under the jurisdiction of the Texas Education Agency. The Committee has made recommendations throughout this report, wherein we recommend that other licensing agencies voluntarily adopt the Act and S.B. 417 amendments that are within their statutory authority to implement, as their method for regulating the schools they authorize. Additionally, we have suggested measures to further improve the efficacy of agency regulation and proprietary school compliance. We believe our recommendations and the guidelines we outline will mutually benefit the licensing agencies, proprietary schools, and taxpayer-constituent-student consumers in Texas.

## RECOMMENDATIONS

### 1. Compliance with Recommendations

WE RECOMMEND THAT ALL LICENSING AGENCIES AND PROPRIETARY SCHOOLS IN TEXAS IMPLEMENT, WITHIN THEIR STATUTORY AUTHORITY, POLICIES AND PROCEDURES FOR REGULATION AND OPERATION WHICH CONFORM TO THE TEXAS PROPRIETARY SCHOOL ACT AND SENATE BILL 417 AMENDMENTS ALREADY IN PLACE; AND ADDITIONALLY, THAT THEY ADOPT THOSE RECOMMENDATIONS CONTAINED IN THIS REPORT.

### 2. Resolution to Continue

WE RECOMMEND THAT THE RESOLUTION TO CONTINUE THE JOINT INTERIM COMMITTEE ON PROPRIETARY SCHOOLS CONTAINED IN THIS REPORT BE ADOPTED BY THE 72nd LEGISLATURE.

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The Committee, if continued, will be allowed the benefit of future inquiry to facilitate the following:

- a. A thorough examination of the policies and procedures being utilized by licensing agencies to regulate schools;
- b. Monitoring for compliance with the recommendation that all proprietary schools and licensing agencies adopt current law and our proposed recommendations;
- c. Further consideration and research surrounding the "Issue of Consolidation" and proposals which would centralize, coordinate, or perhaps establish dual regulatory authority for proprietary schools in Texas;
- d. Closer proximity to progressing initiatives regarding the proprietary school educational system, including:
  - (1) Sufficient time having elapsed for S.B. 417 amendments to take effect;
  - (2) The 1991 Amendments to the Higher Education Act of 1965, resolution of Senate Hearings on abuses in the student aid programs, and the USDE Inspector General's Audit analysis;
  - (3) The Resource Center for State Affairs Compendium Databank of 50-state proprietary school law;
  - (4) The State Higher Education Executive Officers Association Directory of the 14-state initiative for proprietary school "model plans".

References: Appendix M: Sub-Committee Report on Consolidation

## CONSUMER INFORMATION

"At issue is the concept of consumer rights and institutional responsibility. From the perspective of the federal government, the taxpayer, who will in the coming year contribute nearly \$10 billion toward federally assisted student loans and grants, must believe that those hard-earned dollars will not be squandered. The students who apply for and receive those dollars must be assured a fair and equitable return on their tuition. They must believe they will receive the best education possible, resulting in access to better earnings and quality of life in general. The students have a right, as do American taxpayers, to expect quality from their chosen institutions of higher education."<sup>(1)</sup>

The Texas Proprietary School Act does not have specific procedures concerning counseling and support services for students. And although the Texas Education Agency (TEA) Sunset amendments and State Board of Education Rules do address certain disclosures schools must make which impinge on consumer information and protection, those requirements, in the opinion of the Joint Interim Committee on Proprietary Schools, are inadequate both in scope and enforceability.

Several of those who testified before the Committee spoke to concerns about the lack of counseling required of proprietary schools by the various licensing agencies, boards and commissions. The Assistant Secretary for Postsecondary Education said one of his major concerns was that students are not receiving proper counseling - counseling that would enable them to make more informed decisions regarding their postsecondary education choices. Counseling, he believes, is probably the worst thing we do in education. The President of the Austin Association of Private Schools told the Committee that, "Requiring consumer information be given to prospective students will only help schools who keep and place students."<sup>(2)</sup> The Texas Association of Private Schools (TAPS) publishes, annually, their Future Careers Directory; and has recently published a brochure designed to address the need for consumer information regarding proprietary school education.

The default increase can be attributed, in part, to practices of schools that mislead students by their marketing and recruitment activities. In an attempt to circumvent this, the Texas Guaranteed Student Loan Corporation (TGSLC) developed an excellent pamphlet, "Your Future: A Practical Guide to Financing Your Future." The "Your Future" Guide is designed to educate students regarding their loan responsibilities and help them make the right career moves and decisions about choices in postsecondary education.

Finally, the Better Business Bureau of Austin (BBB) is preparing a comprehensive guidebook, dealing with consumer protection issues regarding Proprietary Schools. The guidebook will be targeted to students and high school counselors. It will contain information about things students should look for, and look out for, when selecting a career training school. It will contain a set of industry standards and a provision for a complaint settlement mechanism. The BBB hopes to draw

<sup>(1)</sup> Haynes, Dr. Leonard L., Assistant Secretary of Postsecondary Education, United States Department of Education: Testimony before the Committee's Public Hearing, March 19, 1990, Austin, Texas.

<sup>(2)</sup> Ward, Jackie, Director, Jacki Nell Executive Secretary School: Testimony before the Committee's Public Hearing, October 4, 1990, Austin, Texas.

attention to those features which distinguish an ethically-operated school from one engaging in practices that are not ethical, and may even be illegal. The guidebook will seek to encourage students to do their "homework" in selecting a school, by finding out about the employment prospects they can anticipate as a result of responding to the advertisements and promotions made by the school.

These efforts by interested organizations are to be applauded. However, the primary responsibility for consumer protection lies with the state's licensing agencies. Schools cannot participate in federal monies directed toward student aid unless they are accredited. They cannot become accredited unless they are licensed by their state regulatory bodies. It is obvious then, that leaving to others what is rightfully the responsibility of the state's licensing authority, is no longer acceptable. **THE BUCK STOPS HERE** - at the door of the Legislature. Our recommendations will specifically outline the information schools must disclose to students, and strengthen the present requirements of the agencies on proprietary schools. The State of Texas then, by passing legislation to enforce our recommendations, will take up the banner of consumer protection which rightfully belongs in their hands.

## RECOMMENDATIONS

### 1. Pre-Enrollment Catalog

**WE RECOMMEND THAT A CONDITION OF LICENSING OR LICENSE RENEWAL SHALL BE THE SUBMISSION TO AND APPROVAL BY THE LICENSING AGENCY OF A PRE-ENROLLMENT CATALOG (PEC).**

Students in TEA schools are required to sign a Receipt of Enrollment Policies Form, stating the student received all the information and policies of the school. However, student interviews indicate that in-depth information is not being passed to the student. Schools must be required, among other things, to clearly identify all monies paid by or on behalf of the student; and the student must be apprised of the repayment provisions.

The cost of providing a copy of the PEC for each prospective student shall be borne by the recruiting school. The required contents of the PEC are enumerated in Appendix D. The Pre-Enrollment Catalog shall be delivered to the prospective student by the recruiting school in such time or manner as to provide the prospective student ample opportunity to read the PEC before signing any contract or enrollment agreement, and before being accepted by a school for any course of study, loan or other program. A signed document by the student, verifying that the PEC was received by said student in a timely manner, that the student was given ample time to discuss the PEC with school personnel, and that the student understands the contents and implications of the PEC, must be copied to the student and the student's permanent file at the school.

### 2. Complaints

**WE RECOMMEND THAT ALL SCHOOLS AND LICENSING AGENCIES ADOPT GRIEVANCE PROCEDURES AND A MECHANISM FOR RESOLUTION OF COMPLAINTS.**

Sunset amendments require TEA schools to furnish prospective students with information about how to contact TEA with complaints, and to display a sign explaining how to direct complaints to the Agency. We recommend all state licensing agencies do now adopt this policy. We further recommend that all state licensing agencies be required to collect and be prepared to report complaints made against any school, or any person affiliated with a school under its jurisdiction; that the availability of these complaints about the school and/or school personnel be disclosed to the student prior to enrollment; that notice of said availability of complaints against the school and/or its personnel be on the sign (which must be displayed in a conspicuous place in the school) about how to direct complaints; and, that said complaint information be provided to the prospective or enrolled student upon request. The licensing agency must inform affected parties of all complaints, the status of complaints, and other information relating to complaints. The school must keep a record of complaints made against said school, or its personnel, in the secured records of the school. The availability of complaints against a school and/or any of its personnel, and the method whereby one may enter complaints about said school and/or any of its personnel, must appear in the PEC.

Each TEA regulated school must have a grievance procedure and a mechanism for resolving complaints approved by TEA prior to being licensed to operate. The Better Business Bureau's arbitration program has received formal approval by TEA in settling student complaints. We urge all state licensing agencies and proprietary schools to adopt similar procedures and policies regarding grievances and a mechanism for resolutions. The school's grievance procedures and mechanism for resolving complaints must be disclosed to the prospective student in the PEC.

### 3. Cost Comparisons

**WE RECOMMEND THAT ALL PROPRIETARY SCHOOLS BE REQUIRED TO PROVIDE COST INFORMATION TO THEIR RESPECTIVE LICENSING AGENCIES SIMILAR TO THAT REQUIRED OF TEA SCHOOLS.**

S.B. 417 requires TEA to prepare cost comparisons of similar courses offered by TEA proprietary schools and other institutions, and to provide this cost comparison information to students upon request. TEA schools are required to provide cost information to the Agency; and TEA has entered into an agreement whereby the Texas Higher Education Coordinating Board (THECB) will assist the Agency in compiling cost information data on public and private institutions offering vocational and technical training similar to that provided in the proprietary school. Accurate and equitable cost comparisons of like programs among institutions is a critical issue from the standpoint of student consumer protection. Yet cost is only one of several factors which influence a prospective student's choice of an institution. Any cost comparison information provided by licensing agencies should include a listing of these factors, and encourage the prospective student to investigate each with all schools they are considering. Additional factors include class size, facilities and equipment, employment and placement rates, length of programs, faculty qualifications, and employers of graduates.

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#### 4. Loan Counseling

WE RECOMMEND THAT ALL PROPRIETARY SCHOOLS BE REQUIRED TO CONDUCT THE "SPECIFIED" LOAN COUNSELING ENTRANCE INTERVIEW AS A STEP DURING THE ENROLLMENT PROCESS WITH EACH PROSPECTIVE STUDENT SEEKING A LOAN; AND RECONFIRM THE COUNSELING AT THE TIME OF THE INITIAL DISBURSEMENT OF ANY FUNDS.

Many complaints are received because students are not fully informed of their rights and obligations concerning student grants and loans. We believe all proprietary schools should be required to conduct the "specified" Loan Counseling Entrance Interview with each prospective student seeking a loan, during the enrollment process; and reconfirm the loan counseling at the time of the initial disbursement of any funds. The "specified" Loan Counseling Entrance Interview shall be conducted by the school's "trained" Financial Aid Officer/Counselor; and shall include, but is not limited to the following:

##### "SPECIFIED" LOAN COUNSELING ENTRANCE INTERVIEW

- a. All rights and responsibilities of the student as a borrower;
- b. A thorough explanation of what a loan is, and how important it is for the borrowing student to repay the loan;
- c. Total cost of the program in which the student will be enrolled;
- d. Availability of other forms of financial aid, grants and part-time work;
- e. Starting wage and average salaries of those in occupations for which the student will be trained;
- f. The job placement service available, if any; and the success rate of students finding gainful employment who attended the school and were enrolled in the program for which the student is targeted;
- g. The prospective student must be given, by the school, a copy of the TGSLC "Your Future" Guide, at least 72 hours prior to enrollment, and before any student loan is approved; and sufficient time for full understanding by the student must be accommodated in a counseling session with the school's "trained" Financial Aid Officer/Counselor;
- h. A signed document from the prospective student stating they have received the "specified" Loan Counseling Entrance Interview, and TGSLC Guide at least 72 hours prior to enrollment, and have had sufficient counseling to accommodate full understanding of the Guide and loan procedures, must be copied to the student, guarantor, lender, and the student's school file.

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The "specified" Loan Counseling Entrance Interview in its entirety must be contained in the PEC. We recommend that the cost of providing copies of "Your Future" to each prospective student be borne by TCSLC.

## 5. Career Counseling

**WE RECOMMEND THAT ALL PROPRIETARY SCHOOLS BE REQUIRED TO DISCLOSE TO PROSPECTIVE STUDENTS INFORMATION ABOUT STARTING OR AVERAGE SALARIES.**

Gathering of starting wage and average salary information from employers in the service area of the proprietary school and disclosure of said "local" wage and salary information will help students decide what career path to take, and will allow those who contemplate borrowing for their education access to the type of information critical to their repayment prospects. TEA schools are presently required to provide prospective students with placement and employment rates. More comprehensive information on the availability of jobs and market surveys to determine the type of training desired by industry will help students make better career choices, and will assist them in deciding which educational institution provides the best training and education for a particular career. The section of this report on Placement of Graduates contains recommendations that will further improve the delivery of important job availability information. All wage and salary, placement and employment, and job availability and market survey information for each course or program offered must be disclosed in the PEC.

**WE RECOMMEND THAT ALL PROPRIETARY SCHOOLS BE REQUIRED TO DISCLOSE STATE LICENSING REQUIREMENTS FOR ALL COURSES OFFERED AS PREPARATION FOR LICENSING TO PRACTICE AN OCCUPATION.**

Minimal regulation of proprietary school courses in the past has resulted in courses whose hours have been inflated to certify for federal loan programs, courses that do not meet the need and desires of industry, and courses that do not meet state licensing requirements or vastly exceed those requirements. Disclosure of state licensing requirements will alert students to courses of study where hours and cost have been inflated or which will not meet state licensing requirements. Proprietary schools are not presently required to collect and disclose information about the performance of their graduates on required state licensing examinations. This type of disclosure will help students assess the quality of programs and courses of study being offered. We recommend that all proprietary schools be required to collect and disclose to prospective students, this graduate/examination results information on all courses offered as preparation for licensure. This career counseling data in its entirety must appear in the PEC.

**WE RECOMMEND THAT THE COMMISSIONER OR DIRECTOR, PURSUANT TO STATUTORY AUTHORITY, AND AFTER NOTICE AND UPON PROVIDING AN OPPORTUNITY FOR HEARING PURSUANT TO A REQUEST BY THE PARTIES ADVERSELY AFFECTED, SHALL REFUSE TO ISSUE, REFUSE TO RENEW, REVOKE, OR SUSPEND ANY LICENSE OR SOLICITOR'S PERMIT, AND SHALL PLACE ON PROBATION ANY SCHOOL FOUND TO BE IN VIOLATION OF ANY OF THE FOLLOWING PROVISIONS:**

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- a. Failure to obtain the licensing agency's approval prior to being licensed, beginning operations, or being renewed for continued operation, of the Pre-Enrollment Catalog, any and all of its contents or requirements;
  - b. Failure to conduct the Loan Counseling Entrance Interview and provide a document from the prospective student verifying the interview took place; and further, failure to provide a document from the prospective student verifying receipt of the TGSLC "Your Future" Guide at least 72 hours prior to enrollment in any program; and further, failure to provide a document from the prospective student verifying receipt of the Pre-Enrollment Catalog in a timely manner and verification that an opportunity for inquiry was facilitated by the school's counseling personnel;
  - c. Presenting to prospective students information relating to the school which is false, fraudulent, deceptive, substantially inaccurate, lacking the comprehensiveness necessary for full understanding by the student, or substantially misleading.

References: Appendix A: Texas Proprietary School Act

Appendix B: Summary of Senate Bill 417 Sunset  
Legislation and Comparison Chart

Appendix C: TGSLC "Your Future: A Practical Guide  
to Financing Your Future"

Appendix D: Pre-Enrollment Catalog (PEC) Requirements

Appendix E: "Student Complaints" Form (Compiled Responses)



## ADMISSION AND RECRUITMENT PROCEDURES

"What can be done to tighten entrance requirements? If entrance requirements are tightened, does this defeat the philosophy of access to education and training for everyone? Are we dealing with a situation which dictates that anyone can get a guaranteed student loan regardless of whether or not he or she is capable of passing the curriculum? If the spirit of the guaranteed student loan program is 'training/education for all', then perhaps entrance requirements are not appropriate. However, if proprietary schools can make a profit on a student who it can 'shore up' for a while, knowing full well that the student will probably not make it, is this being counter-productive? Not only do you end up with an uneducated/untrained individual, but you end up with an individual who has a significant debt and perhaps some difficulty taking advantage of future opportunities because of a defaulted loan."<sup>(3)</sup>

Entrance requirements were sufficiently tightened by new State Board of Education rules adopted in December, 1989. These new requirements, although "appearing satisfactory", have not had an opportunity to withstand the test of time. Regardless of whether the rules are satisfactory, there are additional actions we can take now that will address concerns about admission and recruitment standards and strengthen the consumer protection provisions.

## RECOMMENDATIONS

### 1. Truth in Advertising

WE RECOMMEND THAT LICENSING AGENCIES ADOPT THE FOLLOWING PRINCIPLES REGARDING TRUTH IN ADVERTISING, IN ADDITION TO THOSE RESTRICTIONS AND PROHIBITIONS ALREADY IN PLACE FOR SCHOOLS REGULATED BY TEA.

Rules may not restrict the use of a type of advertising medium, size or duration of an ad, or advertisement under a trade name. The licensing agency, however, must be allowed to exercise its oversight responsibilities to the public; and can do so, we believe, by adhering to the following principles regarding truth in advertising, in addition to those restrictions and prohibitions already in place:

- a. Schools, agents of schools, and solicitors may not advertise or represent in writing or orally that such school is approved or accredited by the State of Texas, except that they may advertise that the school has been duly licensed by the state;
- b. Licensing authorities must not use the word "approval" on the certification to operate. The terminology must be "licensed" to operate; and schools must display, in a conspicuous place, the "License to Operate" issued by the State of Texas for the current year;

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<sup>(3)</sup>Murdy, Dr. Lee, Committee Member: Questions from the Committee to the Texas Education Agency, October 12, 1990.

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- c. No school, agent, or solicitor shall make, or cause to be made, any statement of representation, oral, written or visual, in connection with the offering or publicizing of a course, program or school; if such school, agent or solicitor knows or reasonably should have known the statement or representation to be false, fraudulent, deceptive, substantially inaccurate or misleading.

## 2. Commissioned Sales Persons

**WE RECOMMEND THAT THE FOLLOWING ADDITIONAL REQUIREMENTS AND PERMIT RESTRICTIONS, TO AUGMENT THOSE CURRENTLY MANDATED FOR TEA SCHOOLS, BE ADOPTED BY ALL PROPRIETARY SCHOOLS REGARDING COMMISSIONED SALES PERSONS.**

In view of violations in the recruitment of students for proprietary schools based on incentives motivated by the number of enrollments, rather than on the number of persons enrolled who have a reasonable chance for completion of training, some have suggested that a ban be imposed on a school's employment of and reliance on commissioned sales. Appropriately raised, however, is the notion that the unprincipled actions of a few solicitors may not warrant such an embargo on all those who engage in this time-honored way of earning one's living. Further, transgressions must be laid at the feet of manipulative and conscienceless operators, as well as the misguided and unrestrained sales persons they employ. Currently, solicitors representing TEA schools must obtain a permit from the Commissioner before soliciting students to enroll in TEA schools. There are other requirements and permit restrictions imposed on those who recruit prospective students; and we seek to strengthen this process by recommending the following:

- a. There shall now and henceforth be a prohibition on the use by schools of commissioned salespersons/recruiters, unless these individuals are also paid a reasonable salary as an employee of the school;
- b. Any "commission" or fee other than the reasonable salary required to be paid, shall be disbursed to the recruiter in increments tied to the length of time the student is enrolled and progressing toward completion of the program; and said increments shall be 25% of the fee or commission to be paid at the end of each quarter of the student's enrollment and successful progression toward completion.

## 3. Entrance Requirements

**WE RECOMMEND THAT ALL LICENSING AGENCIES ESTABLISH MINIMUM ENTRANCE REQUIREMENTS, AND REQUIRE SCHOOLS IN THEIR JURISDICTION TO SUBMIT SAID ENTRANCE REQUIREMENTS FOR THE AGENCY'S CRITICAL REVIEW AND APPROVAL.**

The House Version of S.B. 417 would have authorized TEA to establish minimum entrance requirements for prospective students of TEA schools. It was believed, by some, that if TEA actually

set the standards for admission to various courses of study, this would allow for consistency and for greater consideration of industry needs in setting the standards. That version was altered by Conference Committee Action, and requires TEA schools to submit their admission standards for approval, rather than having TEA establish the standards. If then it is within the school's purview to set admissions criteria, it is incumbent on the licensing agency to be critical in its review and approval process. And both parties, the schools and the agencies, should seek more feedback from industry to help determine what employers require in the preparation of workers. Increasingly, there is a need for industry input in this and many other areas of the vocational and technical training arena. In subsequent recommendations concerning placement of graduates, we shall encourage schools to consult, via Advisory Councils, on issues critical to improvement of the system. All the requirements apposite to entrance requirements and enrollment policies shall appear in the school's Pre-Enrollment Catalog:

- a. Entrance requirements must be specific and sufficient to provide that students who are allowed to enter a program will have a reasonable chance of completing it. Specific entrance examinations and required entrance level scores must be defined by the licensing agencies for all students, and administered upon enrollment. These examinations are not to be restricted to ability-to-benefit students. Remediation may be necessary even for the high school or equivalency graduate. If the necessity for remediation is revealed, for any student, then the school must implement a plan to encourage progress of the student's competency and performance in basic general education skills;
- b. Each student, ability-to-benefit, or otherwise, should achieve a successful score on a standardized test, one nationally recognized as an appropriate and effective vehicle for minimum skills testing and high school equivalency, and thus indicating that the required necessary remediation has been accomplished; and this successful score should be achieved by said student prior to the student receiving a certificate of completion for that vocational portion of the program in which the student was enrolled and targeted to complete. We suggest that schools should consider the TASP, to ensure that students enrolled in degree programs have the basic academic skills needed to be successful in college-level work;
- c. No school, agent, or solicitor shall enroll a prospective student when it is obvious that the prospective student is unlikely to successfully complete a course of instruction or is unlikely to qualify for employment in the vocation or field for which the training is designed, unless this fact is affirmatively disclosed to the prospective student. If then, the prospective student expresses a desire to enroll after said disclosure is made to that student, the school must obtain a "Disclaimer" signed by the student, which shall read, substantially and minimally, as follows: "I am fully aware that it is unlikely that I will be able to successfully complete the course of instruction"; and/or "I am fully aware of the improbability that I will qualify for employment in the vocation or field for which the course was designed." The "Disclaimer" form shall be included in the Pre-Enrollment Catalog with a citation to the concurrent recommendation from the school that loan eligibility be denied;

- d. If a prospective student is determined as unlikely to successfully complete a course, or is unlikely to qualify for employment in the field or vocation for which the training is designed, then the school must file, in the student's permanent school record, with the TGS LC, and the lender, the "Disclaimer" signed by the student and a concurrent recommendation from the school that said student be determined ineligible to participate in the guaranteed student loan program.

#### 4. Ability to Benefit Students

**WE RECOMMEND THAT ALL SCHOOLS ADOPT THE FOLLOWING POLICIES WITH REGARDS TO ADMITTANCE OF ABILITY TO BENEFIT STUDENTS, AND THEIR SUCCESSFUL MAINSTREAMING INTO THE VOCATIONAL TRAINING FOR WHICH THEY ARE TARGETED.**

Current TEA policy requires that for each program, justification shall be submitted to the Agency approving the entrance requirements established by the school. All applicants without a high school diploma or GED shall be tested. Students without a high school diploma or GED that pass the entrance test are considered to have the "ability to benefit."

Testing alone, however, is not sufficient to ensure that ability-to-benefit (ATB) students will gain from the training offered. Schools who admit ability-to-benefit students must be required to provide a complete student services program including academic and personal counseling and placement assistance. Further, we expect that ability-to-benefit students will achieve levels of success comparable to those for other students. Schools not accountable for these achievement objectives must be prevented from using taxpayer money, in the form of guaranteed student loans, where no legitimate benefit occurs for the student or the community. Our recommendations for admission of ATB students and the attendant services required for this uniquely "high-risk" population include the following:

- a. Schools which admit "ability to benefit" students must develop and implement a plan for counseling ATB students on curriculum, student aid, employment opportunities, and remediation in order to retain these students. If a school fails to carry out this requirement, the licensing agency shall order the plan to be developed and implemented;
- b. Schools shall be required to have a plan of timeliness for mainstreaming ATB students into the vocational training for which said student is targeted. The school must provide the remediation necessary for the student to obtain a GED prior to entering the final quarter of the vocational portion of the program;
- c. ATB students must be tested upon enrollment, to determine any required remediation. The test will provide assurances of what is essential if that student is actually to benefit from the course or program. The test must be standardized, and a nationally recognized instrument for accurately measuring the minimum skills necessary for one to receive a high school diploma;

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- d. All requirements and provisions apposite to ability-to-benefit students must be contained in the Pre-Enrollment Catalog.

#### 5. Enrollment Policies

WE RECOMMEND THAT THE ENROLLMENT AGREEMENT OR CONTRACT USED BY PROPRIETARY SCHOOLS SHALL CONTAIN THE FOLLOWING PROVISIONS IN ADDITION TO THOSE ALREADY MANDATED.

To further strengthen the enrollment policies of proprietary schools, we recommend that the contract or enrollment agreement used by the school comply with the following provisions supplemental to those already mandated:

- a. That it must include a clear and conspicuous disclosure that such agreement becomes a legally binding instrument upon written acceptance of the student by the school, unless cancelled pursuant to statute;
- b. That it must contain the school's cancellation and refund policy which shall be clearly and conspicuously entitled, "Buyer's Right to Cancel";
- c. That each contract or enrollment agreement shall contain a clear and conspicuous explanation of the form and means of notice the student should use in the event the student elects to cancel the contract or sale, the effective date of cancellation, and the name and address of the seller (school) to which the notice should be sent or delivered;
- d. That the enrollment contract or agreement must be contained, and all provisions and requirements thereto shall appear, in the PEC;
- e. That the total cost of the course including tuition and all other charges shall be clearly stated;
- f. That it contain notification that the fair market value of equipment or supplies furnished to the student, which the student fails to return in condition suitable for resale within ten business days following cancellation may be retained by the school and may be deducted from the total cost for tuition, fees and other charges when computing refunds. Any overstatement of the fair market retail price of any equipment or supplies furnished the student shall be considered inconsistent with this provision;
- g. That if a student's enrollment in a school is canceled for any reason, the school shall notify any agency known by the school to be providing financial aid to the student of such cancellation within 30 days;
- h. That the name and description of the courses, including the number of hours or credits of classroom instruction and/or home study lessons, shall be included;

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- i. That no contract or agreement shall contain a wage assignment provision and/or a confession of judgement clause.

Immediately upon signing of the enrollment agreement or the contract by the prospective student, the school shall furnish the prospect an exact duplicate copy of said enrollment agreement or contract, and it shall be copied to the student's file.

References: Appendix F: Questions Posed to Texas Education Agency  
by the Committee and the Agency Responses

## GUARANTEED STUDENT LOAN PROGRAMS AND DEFAULT RATES

The national guaranteed student loan program was created in 1965, as a way of removing financial barriers to opportunities in higher education. In 1976, the Higher Education Act Amendments added financial incentives encouraging states to establish guarantee agencies who would administer the guaranteed student loan program at the state level. The Texas Guaranteed Student Loan Corporation (TGS LC) was created by the Texas Legislature in 1979. This public non-profit entity was charged to administer the federal guaranteed student loan program in Texas; and to guarantee student loans made by financial institutions and the Texas Higher Education Coordinating Board against death, disability or default of the borrower. TGS LC is not a state agency and receives no appropriations of state funds. Start-up money was appropriated by the Texas Legislature in the sum of \$1.5 million from the federal special lender's allowance fund at the Coordinating Board. Additionally, TGS LC was eligible to receive two types of federal advance funds made available for the purpose of helping regional guarantee agencies get established and build adequate reserves.

The main function of TGS LC is to guarantee student loans under the terms of the federal guaranteed student loan program. It is also responsible for helping lenders prevent defaults on loans, for processing lender claims once a default occurs, and for collecting claims on defaulted guaranteed student loans. Finally, the federal guaranteed student loan program statutes require that each state designate a lender of last resort, either the guarantee agency itself or another eligible lender in the state, through an agreement with the guarantee agency. TGS LC was designated this state's lender of last resort by the Legislature in 1985. The lender of last resort provisions require TGS LC to make a guaranteed student loan to any eligible student "to the extent funds are available" who certifies that no other eligible lender in the state, nor the Texas Higher Education Coordinating Board, is willing to make a guaranteed student loan to said student. The corporation has operated successfully without state appropriations, has built up a loan insurance reserve fund of approximately \$25 million, and has not incurred any liability for the state.

The target population for guaranteed student loans was originally middle-income borrowers, with poor students being served by grants. However, the ratio of availability for loan and non-loan aid has virtually reversed itself over the past 10-15 years; from 80% Grant and College Work Study and 20% Loan during the mid to late 1970s, to 80% Loan and 20% Grant and College Work Study today. While not specific to the topic of proprietary schools, a policy issue central to the default debate is this imbalance of loan and non-loan student financial assistance. To compound this situation, guaranteed student loans are now reserved almost exclusively for low income students. Last year, 67% of the student loans guaranteed by TGS LC went to students with annual family incomes of less than \$10,000. This has had a profound impact on the proprietary school community. High default rates are significantly linked to the fact that loans are being made to high risk students. And these are the same students who have a propensity to choose proprietary schools as their postsecondary alternative.

Additionally, Texas is one of fifteen states that does not permit proprietary school students access to state financial aid programs for education. Until Congress changes the focus of the guaranteed student loan program to an educational loan program for credit worthy borrowers and

proportionally increases grant programs to supplement poorer students, loans will continue to be the prime source of student aid for lower socioeconomic segments of the population, and defaults will increase.

Recently, public attention has been focused on the unscrupulous practices of some proprietary schools who lure the disadvantaged and poorly educated into taking out federally guaranteed student loans for an education that:

- they are unable to benefit from;
- they could obtain elsewhere, such as a community college, and at a lower cost;
- is poor in quality, sometimes not meeting the necessary licensing or certification requirements of industry;
- does not result in the "high-paying" jobs promised; and/or
- is not necessary for the intended field of work.

A student emerging from one of these schools may not find employment at all, or may have to take a low paying job that does not permit loan repayment. This student will often default on the loan and thus incur a negative credit history. The student will be prevented from obtaining student loans in the future, and will thus have limited access to further education. And, they may also be barred from acquiring a professional license from the state.

The hammer of negative financial impact continues to fall beyond the defaulting student borrower onto the taxpayer. In fiscal year 1989, taxpayers paid over \$2 billion nationally to cover defaulted student loans. Approximately \$100 million was for defaults in Texas. The Committee is aware that many proprietary schools provide a valuable service to the public and to industry. However, some schools have failed to carry out their mission to adequately educate the high-risk student who comes in search of a better and enhanced lifetime opportunity. If these marginal and low-quality proprietary schools are not eliminated or improved, the entire industry will suffer.

What is being done? Recent initiatives were taken to strengthen regulation at the federal and state level, with a view toward reducing the cost to taxpayers and improving the quality of education. Congress has enacted legislation to restrict participation in the federally guaranteed student loan program. And, the Reauthorization Act will contain a structure designed to minimize defaults, by prohibiting from participation in the guaranteed student loan program any school whose default rate, over the past three years, has averaged 35% or above. Since 1988, TGSCLC has enforced emergency suspensions and compliance reviews for schools with default rates exceeding 30%. TGSCLC monitoring begins when the default rate reaches 20%; which is also the point at which federal laws call for the school to submit a default prevention plan.

These efforts have contributed to reducing default rates which now average 15.5% in Texas schools, public and private. Proprietary school default rates remain the highest among Texas educational institutions. Finally, House Bill 715 and Senate Bill 417 of the 71st Legislature have affected both TGSCLC and the Texas Education Agency's efforts to reduce default rates. We believe the recommendations made by this Committee are pragmatic augmentations to the actions undertaken by others which address this complex multi-faceted problem, shared by a myriad of participants and affected parties.



## RECOMMENDATIONS

WE RECOMMEND THAT THE DEADLINE FOR REFUNDS BY SCHOOLS TO STUDENTS BE EXTENDED TO 60 DAYS; AND THAT THE COMMISSIONER OR DIRECTOR RAISE THE INTEREST PENALTY FOR LATE REFUNDS TO A LEVEL WHICH WILL BE A DETERRANT.

WE RECOMMEND THAT ANY REFUNDS MADE SHALL BE APPLIED TO THE REPAYMENT OF STUDENT LOANS FIRST; SECONDLY, THAT THEY SHALL BE APPLIED TO OTHER GOVERNMENT AID; AND LASTLY, THAT THEY MAY BE APPLIED TO PERSONAL TUITION EXPENDITURES.

WE RECOMMEND THAT SCHOOLS BE REQUIRED TO NOTIFY TGS LC AND THE LENDER, WITHIN 30 DAYS FROM THE DETERMINATION THAT A REFUND IS DUE TO A STUDENT, OF ANY REFUNDS ALREADY MADE OR REQUIRED TO BE MADE.

WE RECOMMEND THAT THE LENDER OR TGS LC BE REQUIRED TO NOTIFY THE STUDENT AND THE SCHOOL WHENEVER THAT STUDENT'S LOAN HAS CHANGED HANDS.

Many of the recommendations we have made in this Report are appropriate steps toward reducing default rates and will, we trust, alleviate the burden for the student, the taxpayer, and the proprietary school system. We refer the reader to those recommendations, as follows:

1. In the section entitled The Number of Agencies Governing Proprietary Schools:
  - Adoption by all schools and agencies of rules conforming to Senate Bill 417;
  - Adoption by the 72nd Legislature of the Resolution to Continue; enabling the Committee to study the consolidation issue and pending national initiatives.
2. In the section of this report entitled Consumer Information:
  - Adoption by all schools of the Pre-Enrollment Catalog;
  - Adoption of grievance procedures and arbitration mechanisms;
  - Adoption of cost comparison compilation procedures;
  - Adoption of the "specified" Loan Counseling Entrance Interview and other loan counseling provisions;
  - Adoption of wage and average salary disclosures;
  - Adoption of state licensing requirement disclosures.

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**3. In the section entitled Admission and Recruitment Procedures:**

- Adoption of truth in advertising provisions;
- Adoption of commissioned salesperson restrictions;
- Adoption of minimum entrance requirements and loan eligibility "Disclaimer" provisions;
- Adoption of policies regarding ability-to-benefit students;
- Adoption of enrollment policy provisions.

**4. In the section entitled Placement of Graduates:**

- Adoption of requirements for stated retention and employment rates, prior to program approval;
- Adoption of Advisory Council consultation on program quality;
- Adoption of placement and employment reporting provisions;
- Adoption of completion rate monitoring provisions.

**5. In the section entitled Quality in the Educational Experience:**

- Adoption of course content and length guidelines;
- Adoption of articulation agreement guidelines.

**6. In the section entitled Management Capacity of Schools:**

- Adoption of rules regarding facilities and equipment;
- Adoption of criteria for qualifications of staff.

**7. In the section entitled Financial Solvency of Schools:**

- Adoption of recommendations regarding fee structures, bonds, the Proprietary School Fund, and financial stability;
- Adoption of criminal penalty and cause for action provisions.

**References:**   Appendix I: State Auditors Briefing Report  
                  Appendix N: TGSLC Background Report

**ACHIEVEMENT OF EMPLOYMENT**

## PLACEMENT OF GRADUATES

The primary reason students choose proprietary schools as their avenue of postsecondary education is to get jobs. And the call for this short-term high quality postsecondary vocational and technical education is being successfully challenged by private and public institutions as well as by proprietary schools, in offering the student a vehicle producing, for the student's investment, a paycheck - a job - at the end of their training.

There is no better way to demonstrate the benefit of vocational training programs by a school than to be able to document successful job placement for their graduates. Private career schools are evidencing their victories in training and placing students. "The annual graduation rate is 70.5 percent, with 68-70 percent of these graduates immediately placed in jobs by career school placement departments. And earnings increase as a result of vocationally specific education."<sup>(4)</sup> In addition, private career schools are businesses which pay salaries, buy goods and services from other businesses, and pay substantial taxes to local, state and federal governments. These schools, for the most part, are a positive economic asset to the state and community both as a business and as an educational institution.

How many students complete a course, what percentage of students are placed in course-related employment, and institutional effectiveness are valid issues for discussion simply because they are the very visible indicators of a school's ability to carry out its advertised mission. Placement and employment for graduates is the "proof of the pudding" regarding how well proprietary schools are doing. It is a fiduciary obligation of schools to students to prepare them for real jobs. While the school cannot "promise" a job, getting the student "work-ready" in a field where jobs are available to that student is the primary accountability factor for the proprietary school.

The Joint Interim Committee on Proprietary Schools, in making the recommendations which follow, manifest our preparedness to deal with schools which fail to deliver on their promises and the reasonable expectations of their students. We must secure the environment for credible proprietary schools to educate the vocationally and technically oriented student, or our businesses will have to do their own training. And, as stewards of the taxpayer's education dollars, we owe the citizens of Texas a method whereby they may enjoy fair and equitable access to quality education and training.

### 1. Job Availability

WE RECOMMEND THAT ALL AGENCIES COLLECT DATA FROM THE PROPRIETARY SCHOOLS THEY REGULATE, INCLUSIVE OF TOTAL ENROLLMENT, RETENTION RATES, COMPLETION RATES, PLACEMENT RATES, AND EMPLOYMENT RATES; AND THAT THEY REQUIRE SCHOOLS TO STATE A DESIRED RETENTION AND EMPLOYMENT RATE PRIOR TO PROGRAM APPROVAL.

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<sup>(4)</sup>Allen, Ron, President, CBM Education Center: Testimony before the Committee's Public Hearing, August 28, 1990, McAllen, Texas.

Proprietary schools are not presently required to maintain an active and effective placement process. Yet, if a large portion of their income is in the form of government grants and loans, it appears we should require certain employment results. Basically, if there were a genuine correlation between the portion of a school's income from grants and loans, and the placement and employment rates of their graduates, we would have an incontestable indicator of how valuable the proprietary training or education would be to businesses in the community. Senate Bill 417 gives the Texas Education Agency the authority to collect data from TEA schools, inclusive of total enrollment, retention rates, completion rates, placement rates, and employment rates. We suggest that all licensing agencies should have and exercise that authority. The State Board of Education Rules require TEA schools to state a desired retention and employment rate before program approval. It is contemplated that the data collected will be used to assist schools in providing a better quality of education and to help students in making choices to enroll in a particular school. No agency has the authority to close a school down for low course/program completion or low employment rates. We have a concern for the quality of some programs in meeting the needs of industry and whether job placement promises are being kept. Recommendations which aim at these concerns are:

- a. The Commissioner or Director shall place on probation those institutions whose completion or employment rates are below certain levels. The licensing agencies shall set and enforce minimum standards for completion and employment rates, as a possible means of eliminating lower quality schools;
- b. The licensing agencies shall utilize the retention, completion, placement, and employment data collected as a key determiner, which may call into question whether a license renewal is awarded;
- c. There shall be a requirement that there be justification for any new and existing programs, to show the opportunity of related jobs for graduates of the program and the real possibility of placement or employment;
- d. Prior to any license being issued to a school that offers, advertises or implies a placement service, the school may be required, at the discretion of the Commissioner or Director, to file for the past year, and thereafter at reasonable intervals to be determined, a certified copy of the school's placement records containing a list of graduates, a description of the job they attained, the name of their employer, and other information the Commissioner or Director may prescribe;
- e. Each school advertising or offering a placement service shall furnish each prospective student, prior to enrollment, and in the Pre-Enrollment Catalog, written information detailing the actual numbers of the previous year's graduates who were placed in the occupation for which they were trained;
- f. Proprietary schools must disclose to prospective students, in the Pre-Enrollment Catalog, the names of local employers who have hired graduates from the program the student is

considering; or in lieu of local employment (for schools with no employment history in that particular locality) a job availability survey indicating the local market supply and demand.

## 2. Advisory Councils

**WE RECOMMEND THAT PROPRIETARY SCHOOLS ENGAGE THE SERVICES OF ADVISORY COUNCILS TO FACILITATE BETTER QUALITY AND PROXIMITY TO INDUSTRY NEEDS OF THEIR PROGRAMS.**

Several critical factors are essential to viable and quality economic development including educational programs for business and industry. Germane to these factors is our understanding of the meaning of economic development. For purposes herein, we choose to define economic development as those activities which lead to or promote increased revenues in the public or private sector, or retain and/or create permanent jobs in the public or private sector within a specified geographic boundary. These activities may also diversify the local economy, improve the quality of life, and lead to producing a positive cash flow to the local economy.

Recently conducted surveys by the Better Business Bureau of Austin suggest that while there may be state licensing, federal requirements for funding, and accreditation, there is an essential missing element... drawing on the input of the industries who will hire the proprietary school graduates. BBB discussions with prospective employers indicated their input was not being solicited by proprietary schools in the development of curriculum and program design. More discouraging was the revelation that for at least two programs currently offered in proprietary schools, graduates start at a level of employment no higher than persons who have not completed the training, that the training is not recommended by the industries who would be the potential employers of these graduates, and that the training is not recommended by said industries as a prerequisite for employment.

Conversely, this Committee heard from industries who depend almost exclusively on proprietary school graduates to meet their work force demands. In those instances, the industry had substantial involvement in the conceptualizing, design, and development of the training programs of their "targeted" schools. And upon hiring the graduates of those programs, where their considerable influence had been felt, the industries made substantial contributions toward the retirement of student loans held by those they hired. Further, where industry has been actively engaged in the formulation and guidance of programs, they have lessened the burden on students and subsidized loan programs by providing grants, scholarships and work-study initiatives for students enrolled in their "preferred" areas and methods of training. To facilitate the ongoing dynamism of this enterprise and to accelerate its proliferation, we recommend the following be adopted:

- a. That the licensing agencies shall institute a rule stating "Any school which does not produce an acceptable rate of placement/employment is required to have an Advisory Council made up of local industry representatives who are employers or potential employers of that school's graduates;"
- b. That schools shall engage in exit interviews with students to help determine their

employability, and that they shall conduct debriefings of students after the students are interviewed by employers in order to more accurately gauge the needs and desires of local businesses and industries;

- c. That proprietary schools shall conduct market and job availability surveys of local industries to determine the applicability of their programs to current community needs;
- d. That compliance reviews of schools by licensing agencies shall incorporate a review of the amount, kind and source of industry input the school is seeking and using;
- e. That schools should establish close relationships with local businesses and industries in fields where the school's graduates will seek employment; and that they should recognize that the quest for feedback from related industries and their influence on the school's programs and curriculum is an enterprise in pursuit of assets having incalculable worth for students and schools alike.

The Joint Interim Committee on Proprietary Schools is convinced of the worthiness and merit of Advisory Councils for proprietary schools. We have observed they can be most helpful to schools in the arena of program development and employment of graduates. Advisory Councils reportedly are financed primarily by the industries and business themselves; their foresight leading them in a direction that will bring ultimate benefit by preventing them from having to re-train their newly hired workers. Consequently, the "cost to benefit" ratio for a school engaging an Advisory Council, becomes the "best bargain in town!" The school gets the benefit of virtually free consultation and an anticipatory market for its graduates. Three of the major accrediting bodies for proprietary schools require Advisory Councils for the schools they accredit. We are not alone in saluting the efficacy of Advisory Councils; and we quite vigorously encourage schools to establish and maintain active relationships with businesses in their locality.

### 3. Placement and Employment Reporting

**WE RECOMMEND THAT SCHOOLS BE REQUIRED TO REPORT BOTH PLACEMENT AND EMPLOYMENT FIGURES TO THEIR LICENSING AUTHORITY. YET IN THE ABSENCE OF ANY CLAIMS BY A SCHOOL OF PLACEMENT ASSISTANCE OR SERVICE, THEY MAY CONVERT THE PLACEMENT FIGURES TO PERCENTAGES WHEN REPORTING TO STUDENTS.**

Texas statute makes a distinction between employment and placement. Employment means the student has a job in the field in which he or she was trained. Placement indicates the school's affirmative effort to assist the graduate in obtaining a job in the field of training. With this understanding, schools are not required to provide placement assistance to students in order to be considered successful. If a program's employment rate is 100%, but it's placement rate is zero, the program would still be considered successful if the school did not claim to have a placement service. TEA schools are required to report employment rates to the federal government, but are required to report employment and placement rates to the Agency and students. School owners

have argued that the requirement to report both rates merely confuses the student who sees, perhaps, a very low placement rate together with a high employment rate. The Committee was asked to alter the requirement and to explore standard language which would eliminate the compulsory reporting of both figures and establish standards lending more consistency to the disclosure.

Believing that both figures are important in order for the prospective student to know how much assistance he or she may expect from the school's placement service, and also what the job prospects are when the coursework is completed, we have determined to leave the requirement substantially as is. We make the following recommendations and observations to clarify this issue for students without actually reshaping the original intent of the law:

- a. If a school advertises or infers a placement service then the employment and placement rate figures must both be reported to the licensing agency, and to the prospective student in the PEC. But, if the school does not advertise or refer in any way to placement service, then the placement figures, when reporting to students, may be converted to a percentage of the total employment figure;
- b. When recruiting students, schools must be conscientious in distinguishing between employment rate figures and placement rate figures or percentages, whichever is applicable. Schools must clarify the usage of the word "employment", which means the student obtained a job in the area for which trained, and "placement", which means the school assisted the student in finding a job, also in the area for which the student was trained;
- c. Basic to the reporting of either placement or employment is the requisite that it accurately reveal whether students are emerging from program prepared and able to obtain jobs in the fields for which they have been trained;
- d. We do not desire to formulate or encourage a one-word definition to replace the two-word terminology presently being used. The statute clearly defines the two different labels regarding how jobs are obtained; and it does not obfuscate the issue if schools are sufficiently clear in defining the two terms for the student.

#### 4. Completion Rates

**WE RECOMMEND THAT ALL AGENCIES REQUIRE SCHOOLS THEY REGULATE TO MONITOR AND REPORT COMPLETION RATES.**

The Texas Proprietary School Act does not address the issue of student drop-out rates. This Committee has observed that drop-out rates are not easily determined, sans a clear and consistent definition of "Who is a drop-out?" For example, one may enroll in school with the forethought of taking only a portion of the courses offered. Upon completion of the chosen courses, when the student leaves the school without having obtained a Certificate of Completion for all the training



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organized under a particular program heading, is that student a drop-out? If a student must leave his studies for a time for personal or financial reasons, but then returns to complete the training, is that student a drop-out? On the Federal level this issue is addressed by limiting the reporting of "drop-outs" to first-time students who do not complete a course of study. This may remove some of the variables in this argument, but not all. Actually, drop-out rates are the result of a conglomerate of circumstances and conditions which cannot be accurately dissected or diagnosed. The Committee has opted to assay this topic from the inverse. That is, we prefer to deal in completion rates rather than speculate in obscurities. Presently, the completion rate for proprietary school students is around 75% overall. While we recommend that the rates be continually monitored and reported, we conclude that at present, rates indicate proprietary schools are retaining and graduating a quite acceptable number of those they enroll.

## QUALITY IN THE EDUCATIONAL EXPERIENCE

In the search for excellence, "benchmarking" is becoming quite common as a method of establishing references from which measurements may be made. By properly surveilling the changing direction of the workplace, educators can employ benchmarking as a tool for responding to the emerging market with training that suitably accommodates industry needs. Better employment and placement goals will be achieved by proprietary schools whose training is based in programs of study that are educationally sound, current, of high quality, and demonstrably effective.

The spotlight of the federal government, in an effort to curb abuses in the guaranteed student loan program, is on those proprietary schools across the nation who are either "short changing" students by offering the minimum number of hours permissible in the loan participation scheme, or are extending - stretching - the length of the courses they offer in order to meet the 300 hour minimum required for eligibility. The Education Reauthorization Act of 1992, will address this abuse and with a probable tightening of the regulations copious enough in scope to deal with programs that are neither acceptable in length or content. The proposed changes in eligibility levels for clock hours versus credit hours will be comprehensive, and administered across the board for all undergraduate vocational and technical courses.

Problems will be encountered, however, as this Committee discovered when we approached the issue. For example: Can the clock to credit hour conversion be made equitably when the types of courses offered may be vastly disparate? In vocational and technical courses one expects to find more "hands-on" learning and skill training than would be confronted in courses based on theoretical research. Technical matters surrounding the conversion issue will, we suspect, be resolved only when realistic models can be developed. The tactic of simply raising the number of hours required for loan participation eligibility may do more harm than good. Society benefits from the compressed shorter courses in the skill oriented training offered by proprietary schools. Students complete the training sooner and are into the market earning money, and paying their loans and taxes, faster than their counterparts in traditional academic institutions.

Course length and content discoveries lead inevitably to queries regarding comparable programs. The logical progression then, is to contemplate the use of degrees by proprietary schools, and explore the avenue and desirability of articulation agreements between proprietary schools, colleges and universities. Fortunately, in dealing with these issues, we have had the privilege of expert assistance. The Texas Higher Education Coordinating Board's Task Force on Associate Degrees for Proprietary Schools has concluded an exhaustive study of the use of degrees by proprietary schools; and their findings and recommendations facilitated our addressing this matter expeditiously.

The State Board of Education lightened our task by granting the Commissioner authority to set minimum and maximum program lengths for TEA proprietary schools. The new rule will require that the following be ascertained, prior to approval of a program: (a) Does the program prepare the student for a job in a recognized occupation? (b) Is there a need for this education or training? (c) Is there an employer demand for the occupation? and (d) Is the content and length that which is necessary to reach the stated objective? Much of the work has been done toward resolving the deeply-held convictions on either side of this controversial issue.

## RECOMMENDATIONS

### 1. Course Length and Curriculum Content

WE RECOMMEND THAT ALL AGENCIES REQUIRE SUBMISSION FOR APPROVAL OF COURSE LENGTH AND CONTENT; THAT THE COURSE LENGTH AND CONTENT BE OF SUCH NATURE AS TO ASSURE, REASONABLY, THAT STUDENTS WILL DEVELOP JOB SKILLS AND KNOWLEDGE; AND THAT THE COMMISSIONER OR DIRECTOR SET MINIMUM AND MAXIMUM PROGRAM LENGTHS FOLLOWING ALONG THE GUIDELINES RECOMMENDED BELOW.

There are no rules or laws governing consistency; only a requirement that the content and length be of such nature as to assure, reasonably, that students will develop job skills and knowledge. Currently, the consistency of course hour lengths and curriculum content between similar programs being offered in proprietary schools, junior colleges, and other public institutions cannot be determined. A sharing of information between THECB and TEA anticipates that when the data is obtained, compared, and analyzed, equitable and accurate comparisons will be made. The length of a course should depend on the skills and capabilities of students coming into that program, and the skills and capabilities hoped for when they have completed the instruction. One must ask; "What is the realistic occupation we are training for?" and then look at the skills the student is aiming toward and equate that with what it will take to train that student. It is valuable to look at program lengths. This is, however, ultimately a subjective evaluation and does not lend itself to objective standardization. We recommend all licensing agencies and schools adopt policies similar to those of TEA and its schools, and we offer the following guidelines:

- a. Course length and curriculum content should be linked to the federal standards in the **DICTIONARY OF OCCUPATIONAL TITLES**, published by the United States Department of Labor;
- b. Minimum and maximum standards for course length and content should be flexible, when necessity for the student's success in the job market is proven. Rigidity, in the face of credible justification should be avoided;
- c. Industry expertise and the good counsel of Advisory Councils should be extensively utilized in setting minimum and maximum standards for program content and length, (see requirements under the topic Placement of Graduates);
- d. For courses leading toward a license to practice an occupation, the course length and content must conform to the stated requirements "or the respective licensing", (see requirements under the topic Consumer Information);
- e. The Commissioner or Director shall require a full accounting for all program contents and lengths prior to licensure;

- f. Schools found to be manipulating course lengths below or beyond industry standards shall be placed on probation until such time as they prove justification for the deviations, or relinquish the abuse;
- g. A full accounting of all course length and content, and licensing requirements where applicable, must appear in the school's Pre-Enrollment Catalog.

## 2. Use of Degrees by Proprietary Schools

WE RECOMMEND THAT THE APPLIED TECHNOLOGY DEGREE AND THE OCCUPATIONAL STUDIES DEGREE BE REMOVED FROM THE AUTHORITY OF THE TEXAS EDUCATION AGENCY. THE TEXAS EDUCATION AGENCY WILL NO LONGER RETAIN THE APPROVAL AND REGULATORY AUTHORITY OF ANY PROPRIETARY SCHOOL DEGREES. THE TEXAS HIGHER EDUCATION COORDINATING BOARD WILL RETAIN AUTHORITY AND REGULATION FOR ALL DEGREES.

WE RECOMMEND THAT THE CHAPTER 12 RULES RECOMMENDED BY THE TEXAS HIGHER EDUCATION COORDINATING BOARD'S TASK FORCE ON ASSOCIATE DEGREES FOR PROPRIETARY SCHOOLS AND OTHER RULES ADOPTED BY THECB, SHALL BE THE GOVERNING INSTRUMENT FOR PROPRIETARY SCHOOL DEGREES.

"To recognize the value of a degree, one must only observe that according to the Strategic Economic Policy Commission, three of four jobs require some education beyond the high school level."<sup>5</sup> Proprietary schools award Applied Technology Degrees and Occupational Studies Degrees without the distinction "Associates". The approval authority for those degrees has been TEA. All other degrees come under the approval authority of THECB. There is no requirement for an "exact match" between degrees offered at proprietary schools and those at community colleges. Proprietary school degrees often place more emphasis on the depth and scope of the student's job skills and less on liberal arts components. There is a need, however, that degrees, as distinguished from certificates, be comparable in nature and scope; to assure the student and employer that a higher level of competency has been achieved and, consequently, higher recognition and privilege are to be awarded.

We recommend that the Applied Technology Degree and the Occupational Studies Degree be removed from the authority of the TEA and that TEA not retain its approval and regulatory authority of any proprietary school degrees. The Texas Higher Education Coordinating Board will retain authority and regulation of all degrees. Further, to achieve the comparability in standards necessary and consistency in regulation and approval, we recommend that the Chapter 12 Rules promulgated by the Coordinating Board Task Force, and other rules adopted by THECB, shall be the governing instruments for proprietary school degrees. The Chapter 12 Rules to achieve comparable standards between public and private institutions include, but are not limited to the following:

<sup>5</sup>Campbell, Dr. Dale, Assistant Commissioner for Community Colleges and Technical Institutes, THECB: Testimony before the Committee's Public Hearing, January 16, 1990, Austin, Texas.

- (1) Faculty qualifications;
- (2) General education requirements;
- (3) Student services.

### 3. Articulation Policies

WE RECOMMEND THAT PROPRIETARY SCHOOLS WITH A SIGNIFICANT NUMBER OF STUDENTS IN DEGREE PROGRAMS SHOULD CONSIDER SEEKING ACCREDITATION BY THE SOUTHERN ASSOCIATION OF COLLEGES AND SCHOOLS' COMMISSION ON COLLEGES. FURTHER, WE RECOMMEND THAT ALL PROPRIETARY SCHOOLS BE ENCOURAGED TOWARD ARTICULATION AGREEMENTS USING THE FOLLOWING GUIDELINES.

Many proprietary schools are not concerned with articulation, (the transferability of students' credits to the college or university level). Their training is more terminal in nature and often is oriented toward persons interested in rapid employment rather than prolonged academic studies. There are, however, a percentage of students attending proprietary schools who wish to continue their education beyond the vocational/technical training level offered at the proprietary school. It is a reasonable expectation of students attending proprietary schools for technical competency, and then deciding on advanced training or greater proficiency with a degree, to be comfortable in starting out with the understanding that they will be able to "get in the door" of a college. A few selective proprietary schools require a college degree for entrance in some of their courses. It is unbiased, if proprietary schools recognize the validity of a degree, that the institutions granting those degrees recognize the value added dimension provided by proprietary school training. We can no longer afford the isolation, or even the perceived isolation, of proprietary schools in the mainstream of education. We seek to encourage articulation agreements by suggesting the following:

- a. Proprietary schools should seek articulation agreements for the segment of their student population, regardless of how small, who desire to continue their education beyond the proprietary level;
- b. Community colleges and universities should cooperate with interested schools in developing agreements that will enable transfer of credits for students;
- c. Proprietary schools may be more successful in obtaining articulation rights if they encourage their accrediting councils to support and share in the accomplishment of the agreements. Proprietary schools with a significant number of students engaged in degree programs should consider the benefits to be derived in articulation agreements, and their affiliation with SACS Commission on Colleges.
- d. Representations regarding transferability of credits earned by students in the proprietary

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school must be true, and accurately reflective of the "real world" situation, and they must be spelled out clearly for the student in the Pre-Enrollment Catalog;

- e. We encourage all parties, the licensing agencies, approval accreditation bodies, proprietary schools, and colleges and universities, toward cooperation and partnership in dealing with this important consideration for students.

**References:**   Appendix G: THBCB Task Force Chapter 12 Rules  
                  Appendix H: Oversight Chart of Degrees

**ACCOUNTABILITY OF SYSTEMS**

## MANAGEMENT CAPACITY OF SCHOOLS

According to one market survey, "Less than one-half of the workforce will retain its company affiliation or present job title beyond one year."<sup>(6)</sup> While encouraging for those who will advance "up the line" in position, this may indicate that others will be victimized by the loss of employment. This Committee's site-visits to fourteen proprietary schools revealed that the scope of training ranges from exemplary to dismal. For a school to rely exclusively on programs that employ a restrictive use of equipment and parochial attitudes toward faculty qualification, or to aim at such over-sophistication in their method of instruction that they effectively remove their graduates from consideration in the local market, is to deny access. We recognize the intrinsic value of the "hands-on" experience required of those who teach in the vocational and technical arena, but not to the exclusion of updated academic inquiry and achievement. We abhor the concept of students being "locked out", either from articulation to facilitate a desired upgrade in skill and proficiency, or from unlimited possibilities for relocation into a larger or augmented "state-of-the-art" work environment.

The Texas Education Agency, in the regulation of schools under its jurisdiction, is engaging employer committees to help sort out this issue, congruent to their concern for more accountability from schools both in the adequacy of the equipment used to train students and the expertise of the school's instructor teams. Again, we have identified an area momentous to the wielding of Advisory Councils. They are as critical in determining the appropriateness of a school's facilities, equipment, and instructor qualifications, as in the development of course length and curriculum content. We advance the utilization of these employer committees and Advisory Councils by all agencies and schools in our analysis of the management capacity of schools as exhibited by facilities, equipment, and staffing; and in the recommendations we make accordant to agency regulatory and oversight functions.

## RECOMMENDATIONS

### 1. Facilities and Equipment

WE RECOMMEND THAT ALL LICENSING AGENCIES ADOPT RULES REGARDING ON-SITE EVALUATIONS, AND STANDARDS DESIGNED TO QUALIFY THE FACILITIES AND EQUIPMENT EMPLOYED BY SCHOOLS THEY REGULATE, CONFORMING TO THOSE ALREADY IN PLACE REGARDING TEA SCHOOLS; AND ADDITIONALLY, THOSE SUGGESTED BELOW.

Current laws contain processes whereby TEA shall make on-site evaluations of facilities to obtain information for the certification, renewal, compliance survey, complaint investigation, and closed school processes for its regulated schools. TEA is required to visit each school in its jurisdiction at least once per year. Although required to visit out-of-state schools where they have jurisdiction,

<sup>(6)</sup>Direct Marketing Association's Basic Institute, Rochester, New York.



staff inadequacies have caused no assignments to be made for out-of-state travel. New rules, passed by the State Board of Education, allow TEA to insure that the equipment used to train students in TEA schools is comparable to that used in the industries that would be hiring from those schools. TEA will consult with industry experts to help get the evidence necessary to deny a License to Operate to any TEA school that does not have the required equipment to achieve the objective of employment for those trained. These industry experts will help line out minimal standards for equipment sufficiency, and comparability to what students, as employees, will encounter on their jobs. Vocational and technical industries evolve rapidly and their employee needs are in constant fluxuation. Industry input is critical to determine that state-of-the-art equipment and training is being used to meet the challenges of the future. All licensing should include the following policies regarding quality and standardization of school facilities and equipment.

a. No license shall be issued or renewed unless the Commissioner or Director first determines:

- (1) That the applicant school has satisfactory training facilities with sufficient tools, equipment and software, and the necessary number of work stations to train, adequately, the students currently enrolled and those proposed to be enrolled;
- (2) That the premises and conditions under which the students work and study are sanitary, healthful, and safe according to modern standards;
- (3) That each occupational course or program of instruction or study shall be of such quality in content and utilization of equipment, tools, and software, to provide education and training which will adequately prepare enrolled students for positions in the occupation for which the training is intended.

b. Before a license is issued to a school, each school located in Texas shall maintain permanent records for all students enrolled at any time. Each school offering a correspondence course of instruction to a student located in Texas shall maintain permanent records for Texas students enrolled at any time. Records include, but are not restricted to, the student's loan/grant status, school transcripts, documentation, and files containing student data about academic credits earned, courses completed, grades awarded, degrees awarded, and periods of attendance. To preserve permanent records, a school shall submit to the licensing agency a plan that meets the following requirements:

- (1) At least one copy of the records must be held in a secure depository;
- (2) An appropriate official must be designated to provide a student with copies of records or transcripts upon request;
- (3) An alternative method of complying with the above mentioned record keeping requirements must be established if the school ceases to exist.

- c. Original, additional classroom, change of address, approval of new programs, and any other visit requested by the school should be announced. We recommend, however, the following visitation provisions be adopted by the licensing agency:

- (1) In order to determine the normal operating conditions in a school, the statute shall require that the renewal and other compliance visits be unannounced;
- (2) The Commissioner, Director, or delegate, may inspect the instructional books and records, classrooms, dormitories, tools, equipment and classes of any school or applicant for a license, at any reasonable time.

## 2. Qualifications of Staff

**WE RECOMMEND THAT ALL AGENCIES ADOPT REQUIREMENTS REGARDING THE QUALIFICATIONS OF STAFF CONFORMING TO THOSE ALREADY IN PLACE FOR TEA SCHOOLS, AND ADDITIONALLY THOSE SUGGESTED BELOW.**

The State Auditor's report sites that instructor qualifications in proprietary schools are often unduly vague, and that they should be more specifically defined for each program or course of study and more judiciously enforced by the licensing agencies. While it may not be necessary for all faculty members to have college degrees, instructors and teachers should undergo selection criteria to determine their suitability to teach. This might include experience levels in the given content area, qualifications as an instructor, and personal background requirements that would screen out undesirable influences. TEA believes that one critical point in improving program quality is that agency's authority to approve instructors. Their requirements currently include the following:

- Criteria for persons registering as representatives, recruiters, agents or solicitors for schools, and prohibitions;
- Criteria for Directors and staff persons, prohibitions, and requirements for attendance at TEA workshops;
- Criteria for Instructors including verified qualifications, evaluation processes, and retention requirements to ensure consistency;
- Requirements for staff development plans and evaluations;
- Criteria for reputation and character imperatives;
- Educational and experience requirements and levels of knowledge;
- Restrictions on solicitations, recruitment and enrollments;

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- Restrictions on disclosure of loan information;
  - Sanctions and penalties for violations;
  - Prohibitions against misrepresentation, fraud, coercion, intimidation, inducements, and failure to fully disclose;
  - Licensing and certification requirements.

The TEA authorization has been strengthened by proposed rules concerning instructors which TEA believes will assist in their endeavor to improve program quality. There should, however, be closer regulation and control of branch operations of proprietary schools, even when these branches are delivering the same kind of education and training as the "mother school".

Even greater requirements must be placed on branches who specialize in a different area of education or training than that of the original qualifying entity. TEA has controls in place whereby the Agency treats branch operations the same as "mother school" operations. Each is required to hold a certificate of approval and meet all the legal requirements. TEA has requested that the Committee's recommendations in this regard specifically include suggestions on how better to detect and prosecute fraud and deception on the part of those who engage in "branching". The Committee will, during the interim, examine more thoroughly this "branching" issue; with a view toward the research and newly instituted rules adopted by the accrediting bodies, and the voluntary oversight of licensing agencies in their jurisdictions. For purposes herein, we recommend that all licensing agencies take an active role to check abuse and neglect, and safeguard the quality of instruction and instructors in their designated schools by adhering to existing policies augmented by the following:

- a. That all persons desirous of teaching in the school shall submit a form, designed and furnished to schools by the licensing agency, as application for approval to teach or instruct; and said application shall reveal the educational and experiential levels of the applicant in all courses or programs they will teach or instruct, and the licensing agency shall review all applications with a view toward competency, consistency, and the overall upgrade in quality of instructor personnel;
- b. That statute require disclosures to accompany a school's application for a license, or instructor or other school personnel applications, which include any and all convictions and violations of owners, supervisory employees, solicitors, instructional faculty or any other school personnel.

### 3. Agency Regulation

WE RECOMMEND THAT CLASSES, COURSES, PROGRAMS OR SCHOOLS INTENDED TO PREPARE STUDENTS TO SIT FOR UNDERGRADUATE, GRADUATE, POSTGRADUATE OR PROFESSIONAL LICENSING AND OCCUPATIONAL ENTRANCE EXAMINATIONS, BE

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EXEMPTED FROM REGULATION; EXCEPT THAT THEY SHALL CONTINUE TO MEET THE FOLLOWING LICENSING REQUIREMENTS:

- That courses must be educationally sufficient;
- That instructors must have the necessary educational qualifications;
- That all locations must meet several standard requirements;
- That the schools must be fiscally sound and have the necessary assets to offer programs;
- That test preparation courses and schools meet other requirements the Commissioner or Director may prescribe.

WE RECOMMEND THAT AGENCIES EXAMINE CURRENT REGULATIONS TO DETERMINE THEIR FAIRNESS AND EQUITABLE APPLICATION TO SMALLER SCHOOLS AND TEST PREPARATION SCHOOLS INCLUDING, BUT NOT LIMITED TO, REGULATIONS REGARDING:

- Seminars and workshops;
- Standards to ascertain the progress of students;
- Absences, attendance policies and make-up work;
- Paperwork compliance;
- Fee schedules and bonding.

WE RECOMMEND THAT AGENCIES ADOPT POLICIES, AND WHERE FEASIBLE, PERSONNEL, DEDICATED TO THE ADVANCEMENT OF CONSTITUENT SUPPORT.

The question was raised: "Does the State help proprietary schools be effective? Or, do state agencies just regulate and control?" The Agency responded to this question by saying that much of their oversight function is designed to improve the quality of the program offerings at TEA schools. And, that the Agency helps schools be effective by regulation. TEA facilitates proprietary school input through the TEA Proprietary Schools Advisory Committee which incorporates proprietary school representation. And, although regulations promulgated by the DPSVE provide for the accommodation of smaller schools, the Agency is not able to waive statutory requirements. The staff make-up of licensing agencies is primarily dedicated to regulation, investigation, and monitoring for compliance. Schools often depend, for advocacy and liaison, on their voluntary association with accrediting bodies. These accrediting bodies, however, are often far-removed both in geographical proximity and facility for communication from the schools who ascribe to the standards they promulgate. This Committee has received testimony and written submissions from schools which express their concerns for more representation and the influence they can exert on behalf of their own self-policing and efficiency upgrade. Further, they have questioned the efficiency, effectiveness, and appropriateness of some regulations, especially on the smaller schools or those with unique programs. Finally, there is the perception, by some proprietary schools, of a lack of affirmative assistance and intervention by licensing agencies which would result in better coordination and cooperation between the agencies and proprietary schools. The recommendations we make regarding agency examination of current policies and the institution of models designed for constituent advocacy, will, we trust, help to alleviate some of the concerns proffered.

## FINANCIAL SOLVENCY OF SCHOOLS

Essential to the quality and integrity of postsecondary education, and in particular that of proprietary schools, is the financial stability of institutions. Because proprietary schools are private "for-profit" entities, with a need for rapid turnaround in programs and student clientele, their potential for financial instability is increased. Some industry analysts argue that the profit motive may lead to greater pressures for too rapid growth, expansion into branch campuses, and buying and selling schools.

Historically, the weakness in financial regulation of proprietary schools has been due in part to a lack of regulatory resources and the limited focus of federal and state agencies charged with regulatory oversight. As a result, numerous schools have claimed bankruptcy, leaving students with a "real" debt, and yet, a questionable education.

The Legislature recently increased initial and renewal fees paid to TEA by the schools they regulate. Still, these fees are relatively low when juxtaposed with proprietary school profits. Their regressive nature is evidenced by the fact that larger schools pay a significantly smaller fee in proportion to their gross revenues than do smaller schools. These fee assessments represent the primary source of funding for the regulation of proprietary schools and they must be progressive if they are to be sufficient for providing appropriate regulation.

Testimony before the Committee from the Office of the Texas Attorney General highlighted the lack of resources and personnel available to properly discharge oversight and regulatory responsibilities as follows:

- Since September 1, 1989, forty-one (41) proprietary schools regulated by TEA have closed in Texas, owing thousands of Texas students between 2.5 and 25 million dollars in tuition refunds;
- During the last two fiscal years, proprietary schools in Texas generated \$485 million in tuition revenues from loans made by the Texas Guaranteed Student Loan Corporation. During the same period, the TEA's Division of Proprietary Schools and Veterans Education, (DPSVE), which regulates approximately one-third of these schools, had an operating budget of about 1.5 million dollars;
- As of September 20, 1990, the total dollar amount of student loans in default for Texas proprietary school students stood at \$220,728,333.74.

The 71st Legislature, in S.B. 417, established a Tuition Protection Fund to protect students against tuition loss resulting from TEA school closures. The fund is administered by the Texas Education Agency and is designed to pay the expenses and costs of teach-outs. Each TEA school is assessed an amount proportional to their renewal fee to bring the fund to \$250,000.

Testimony before the Committee, data gathered from the respective monitoring agencies, and a review of other state policies where Tuition Protection Funds have been established, indicates that the maximum \$250,000 fund provided for under current Texas law is grossly inadequate to provide students the protection for which it is designed. Furthermore, the Committee feels that in

order to ensure fair and comprehensive protection, the Tuition Protection Fund should provide the student the option of tuition recovery in the event a teach-out is not feasible.

To the extent that state governments are bound by federal law, the Committee is restrained in its promulgation of new law regarding the regulatory process. And, it is advisable that we allow the federal reauthorization process to run its course so that as policy makers, we are better informed as to methods whereby we may most effectively interface with our regulatory counterparts.

In the interim, we present herein, recommendations aimed at enhancing the financial stability of the proprietary school industry in Texas which, if advanced and implemented, will position our state as a model for regulatory excellence and quality. Our overall concern for the Tuition Protection Fund, the surety bond, and the voluntary teach-out procedures for failed schools, is student protection.

## RECOMMENDATIONS

### 1. Consolidation of Fees and Proprietary School Fund

**WE RECOMMEND THE ESTABLISHMENT OF A PROPRIETARY SCHOOL FUND, ADMINISTERED BY THE TEXAS EDUCATION AGENCY, AND EXPRESSED AS A PERCENTAGE OF ANNUAL GROSS TUITION.**

The Tuition Protection Fund, as it is currently constituted, is narrow in scope and is inadequate in sum to address the estimated millions of dollars required to recover tuition and/or teach-out students of closed schools. It must be increased if we are to afford students meaningful protection. The establishment of a Proprietary School Fund is a positive first step in an industry-wide attempt to provide tuition refunds for students from schools that have failed. Already, there is a voluntary partnership between TEA and the proprietary school industry which has resulted in 85% of students from TEA closures being taught out by schools with related programs. Expanding the use of teach-outs is a viable avenue to explore in our attempt to render catastrophic school failures the least harmful to affected students. The variety of teach-out sources include:

- Other proprietary schools with "like" courses and programs;
- Other public and private schools;
- Creating necessary courses/programs at schools;
- Teaching & apprenticeship programs facilitated by private industry.

The Proprietary School Fund would be assessed as an annual fee or tax dedicated to covering all fees charged to licensed schools, the cost of staffing and operating DPSVE, tuition recovery funds and teach-outs. Any remaining available sum would, optionally, be committed to covering the proprietary school portion of TGSLC's uninsured loan default exposure.

### 2. Surety Bonds

**WE RECOMMEND THAT THE MAXIMUM BOND LIMITATION OF \$25,000 BE ABOLISHED.**

The availability of surety bonds is dwindling and the amount is inadequate to provide any real protection. Few good businesses can afford to keep the surplus cash on hand to cover the unearned tuition amount needed to protect students of closed schools either for tuition recovery or teaching-out. We believe dollar for dollar backing is needed in place of a nominal bond fee. We therefore recommend the elimination of the current surety bond in favor of more realistic methods of student protection. To guarantee schools are financially accountable to students for unearned tuition the bond amount should be expressed as a ratio to gross tuition revenue. The Legislature is advised to consult with the State Board of Insurance on formulation of the proper number.

### 3. Financial Stability

IN ORDER TO AVOID PROVIDING ASSISTANCE FOR STUDENTS TO ATTEND INSTITUTIONS THAT ARE NEAR CLOSING, THE COMMITTEE RECOMMENDS THAT THE STATUTORY REQUIREMENT, "THAT A SCHOOL SHOULD BE FINANCIALLY SOUND AND CAPABLE OF FULFILLING ITS COMMITMENTS FOR TRAINING", BE REPLACED WITH EXPLICIT AND OBJECTIVE FINANCIAL CRITERIA. SCHOOLS SHOULD BE EXPRESSLY PROHIBITED FROM CARRYING UNEARNED TUITION AS A CURRENT ASSET AND SHOULD BE REQUIRED TO CARRY THE ITEM AS A CURRENT EXPENSE. CURRENT ASSETS SHOULD BE REQUIRED TO EXCEED LIABILITIES BY A RATIO OF NOT LESS THAN ONE-TO-ONE.

### 4. Financial Disclosure

IN ORDER TO DETECT FAILING INSTITUTIONS AND PROVIDE WHATEVER TECHNICAL ASSISTANCE IS APPROPRIATE, THE COMMITTEE RECOMMENDS THAT SCHOOLS HAVING GROSS TUITION REVENUE INCOME EXCEEDING \$25,000, BE REQUIRED TO SUBMIT COMPILED OR REVIEWED FINANCIAL STATEMENTS TOGETHER WITH THE PREVIOUS TWO YEAR'S FEDERAL INCOME TAX RETURNS ANNUALLY TO THE STATE AUDITOR'S OFFICE FOR REVIEW.

For the issue of student protection and consumer rights to be advanced to its logical conclusion, it is necessary to establish defenses which will be available to students under Texas law with respect to schools and/or owners who exhibit "unscrupulous practices" that invade and abuse students via the guaranteed student loan program.

Consideration of penalties is not an indictment or condemnation of proprietary education as a viable postsecondary educational alternative. It is, to the contrary, an effort by the Committee to insure that good schools remain the asset they are to postsecondary education in Texas, that unscrupulous operators be rooted out of the proprietary school marketplace, and that under all circumstances, within the regulatory scope of the legislature, we provide students and taxpayers, as borrowers and guarantors, the same level of protection accorded by the law in every other consumer credit transaction, i.e., "that during the life of the contract, they get what they pay for."

Testimony before the Committee highlighted two cases of trade school abuse in Texas which received national attention. Specific information on these two cases is included in the appendix

to this section of the report. For purposes herein, there is a general consensus among Committee members that various instances of apparent willful abuse of students through the guaranteed student loan program, warrant penalties at least commensurate with the level of damages incurred by students, and consistent with existing penalties relating to the use of fiduciary funds.

It is to the credit of the proprietary school sector that it has so creatively and professionally capitalized the vocational education marketplace, providing educational opportunities where there may otherwise have been none. However, as Lauro Cavazos, U.S. Secretary of Education said, in May 1989:

"There are some unscrupulous and uncaring institutions out there who are taking advantage of a program designed to help out students. We must weed-out unethical schools and other program participants whose sole purpose is to profit at the expense of our students and taxpayers. Abuses have become so rampant that 'let the buyer beware' will no longer suffice as public policy in education."

To facilitate understanding of the basis for the Committee's concerns regarding the vulnerability of student borrowers within the context of their contractual relationship with the school as seller, we note that the execution of a guaranteed student loan note is unlike any other consumer transaction known to the law:

- a. The identity of the lender, the amount of the loan, and the rate of interest are typically left blank at the time the student signs the note. This procedure, which is roundly condemned and made illegal in almost every other context, is expressly sanctioned by the Department of Education, 34 C.F.R. 682.205;
- b. Lenders are permitted to make electronic fund transfers of guaranteed student loan proceeds directly to a school's bank account. As a result of this procedure, students are frequently unaware that they have executed a promissory note, let alone that it has been funded;
- c. The student borrower bears the entire risk of the insolvency of the seller or of the sellers partial or total failure to perform. The lender bears no responsibility for the failure of the seller. In every other consumer transaction, the buyer can assert against the lender whatever defenses he originally had against the seller. (See FTC Rule 433 "Preservation of Consumer's Claims and Defenses," 16 C.F.R. 433.1 et seq);
- d. Disclosures that are required to be made in every other consumer credit transaction are not required to be made in connection with a guaranteed student loan. This is due to Congress having exempted guaranteed student loans from the Truth in Lending Act.

In addition to the aforementioned information gathered by the Attorney General's Office, the Texas Education Agency's legal staff has assisted the Committee in reviewing the language found in other state statutes concerning criminal penalty provisions.



## RECOMMENDATIONS

### 5. Criminal Penalties and Cause for Action

WE RECOMMEND THAT RULES BE IMPLEMENTED THAT MAKE THE SCHOOL OWNER, IF AN INDIVIDUAL, OR THE MAJORITY SHAREHOLDER, IF A CORPORATION, PERSONALLY LIABLE FOR THE PAYMENT OF ANY UNPAID TUITION REFUNDS.

WE RECOMMEND THAT THE WILLFUL FAILURE TO PAY A TUITION REFUND BE DECLARED A DECEPTIVE TRADE PRACTICE.

WE RECOMMEND THAT THE CURRENT STATUTE BE AMENDED TO INCLUDE CRIMINAL PENALTIES, AS FOLLOWS:

32.65 In addition to any other penalties elsewhere prescribed:

- (a) Any person, group or entity, or any owner, officer, agent, or employee thereof, who knowingly (1) fails to make tuition refunds as required by 32.39 of this act with the intent to defraud more than one person, (2) falsifies or destroys school or other business records relating to the operation of the school with the intent to defraud, or (3) operates a proprietary school without a valid license to operate, shall be guilty of a class A misdemeanor punishable in accordance with the penal law;
- (b) Any person, group or entity, or any owner, officer, agent, or employee thereof, who knowingly and intentionally participates in a scheme constituting a systematic ongoing course of conduct involving the wrongful withholding of tuition refunds in violation of 32.39 of this act, with the intent to defraud ten or more persons, and withholds tuition refunds in excess of one thousand dollars, shall be guilty of a felony in the third degree; if tuition refunds have been withheld in excess of twenty thousand dollars, such person, group or entity, owner, officer, agent, or employee thereof shall be guilty of a felony in the second degree;
- (c) Upon the determination that there exists reasonable grounds to believe that a criminal violation of this act has been committed, or that any other crime has been committed in connection with the operation of a proprietary school, the administrator shall refer such determination and the information upon which it is based to the appropriate district attorney. The district attorney may bring an action on his or her own initiative.

References: Appendix J: Congressional Research Service Report  
 Appendix I: State Auditor's Briefing Report  
 Appendix K: Testimony of Attorney William Goodman

## **EPILOGUE**

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## DENOUEMENT

### Enumeration of Recommendations

#### I. ACCESS to Education

##### A. The Number of Agencies Governing Proprietary Schools

1. We recommend that all licensing agencies and proprietary schools in Texas implement, within their statutory authority, policies and procedures for regulation and operation which conform to the Texas Proprietary School Act and Senate Bill 417 Amendments already in place; and additionally, that they adopt those recommendations contained in this Report.
2. We recommend that the Resolution to Continue the Joint Interim Committee on Proprietary Schools contained in this Report be adopted by the 72nd Legislature.

##### B. Consumer Information

1. We recommend that a condition of licensing or license renewal shall be the submission to and approval by the licensing agency of a Pre-Enrollment Catalog (PEC).
2. We recommend that all schools and licensing agencies adopt grievance procedures and a mechanism for the resolution of complaints.
3. We recommend that all proprietary schools be required to provide cost information to their respective licensing agencies similar to that required of TEA schools.
4. We recommend that all proprietary schools be required to conduct the "specified" Loan Counseling Entrance Interview as a step during the enrollment process with each prospective student seeking a loan; and reconfirm the counseling at the time of the initial disbursement of any funds.
5. We recommend that all proprietary schools be required to disclose to prospective students information about starting or average salaries.
6. We recommend that all proprietary schools be required to disclose state licensing requirements for all courses offered as preparation for a license to practice an occupation.
7. We recommend that the Commissioner or Director, pursuant to statutory authority, and after notice and upon providing an opportunity for hearing pursuant to a request by the parties adversely affected, shall refuse to issue, refuse to renew, revoke, or suspend any license or solicitor's permit; and shall place on probation any school found to be in violation of the (enumerated) provisions.

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### C. Admission and Recruitment Procedures

1. We recommend that licensing agencies adopt the (enumerated) principles regarding truth in advertising in addition to those restrictions and prohibitions already in place for schools regulated by TEA.
2. We recommend that the (enumerated) additional requirements and permit restrictions, to augment those currently mandated for TEA schools, be adopted by all proprietary schools regarding commissioned sales persons.
3. We recommend that all licensing agencies establish minimum entrance requirements and require schools in their jurisdiction to submit said entrance requirements for the agency's critical review and approval.
4. We recommend that all schools adopt the (enumerated) policies with regards to admittance of ability-to-benefit students and their successful mainstreaming into the vocational training for which they are targeted.
5. We recommend that the enrollment agreement or contract used by proprietary schools shall contain the (enumerated) provisions in addition to those already mandated.

### D. Guaranteed Student Loan Programs and Default Rates

1. We recommend that the deadline for refunds by schools to students be extended to 60 days; and that the Commissioner or Director raise the interest penalty for late refunds to a level which will be a deterrent.
2. We recommend that any refunds made shall be applied to the repayment of student loans first; secondly, that they shall be applied to other government aid; and lastly, that they may be applied to personal tuition expenditures.
3. We recommend that schools be required to notify TGSLC and the lender, within 30 days from the determination that a refund is due to a student, of any refunds already made or required to be made.
4. We recommend that the lender or TGSLC be required to notify the student and the school whenever that student's loan has changed hands.

## II. ACHIEVEMENT of Employment

### A. Placement of Graduates

1. We recommend that all agencies collect data from the proprietary schools they regulate, inclusive of total enrollment, retention rates, completion rates, placement rates, and

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employment rates; and that they require schools to state a desired retention and employment rate prior to program approval.

2. We recommend that proprietary schools engage the services of Advisory Councils to facilitate better quality and proximity to industry needs of their programs.
3. We recommend that schools be required to report both placement and employment figures to their licensing authority. Yet in the absence of any claims by a school of placement assistance or service, they may convert the placement figures to percentages when reporting to students.
4. We recommend that all agencies shall require schools they regulate to monitor and report completion rates.

#### B. Quality in the Educational Experience

1. We recommend that all agencies require submission for approval of course length and content, that the course length and content be of such nature as to assure, reasonably, that students will develop job skills and knowledge; and that the Commissioner or Director set minimum and maximum program lengths following along the (enumerated) guidelines.
2. We recommend that the Applied Technology Degree and the Occupational Studies Degree be removed from the authority of the Texas Education Agency. The Texas Education Agency will no longer retain its approval and regulatory authority of any proprietary school degrees. The Texas Higher Education Coordinating Board will retain authority and regulation for all degrees; and

We recommend that the Chapter 12 Rules recommended by the Texas Higher Education Coordinating Board's Task Force on Associate Degrees for Proprietary Schools, and other rules adopted by THECB, shall be the governing instruments for proprietary school degrees.

3. We recommend that proprietary schools with a significant number of students in degree programs should consider seeking accreditation by the Southern Association of Colleges and Schools' Commission on Colleges. Further, we recommend that all proprietary schools be encouraged toward articulation agreements using the (enumerated) guidelines.

### III. ACCOUNTABILITY of Systems

#### A. Management Capacity of Schools

1. We recommend that all licensing agencies adopt rules regarding on-site evaluations, and

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standards designed to qualify the facilities and equipment employed by schools they regulate conforming to those already in place regarding TEA schools, and additionally, those (enumerated).

2. We recommend that all agencies adopt requirements regarding the qualifications of staff conforming to those already in place for TEA schools, and additionally, those (enumerated).
3. We recommend that classes, courses, programs or schools intended to prepare students to sit for undergraduate, graduate, postgraduate or professional licensing and occupational entrance examinations, be exempted from regulation; except that they shall continue to meet the (enumerated) licensing requirements; and

We recommend that agencies examine current regulations to determine their fairness and equitable application to smaller schools and test preparation schools, including, but not limited to, the (enumerated) regulations; and

We recommend that agencies adopt policies, and where feasible, personnel, dedicated to the advancement of constituent support.

#### B. Financial Solvency of Schools

1. We recommend the establishment of a Proprietary School Fund, administered by the Texas Education Agency, and expressed as a percentage of annual gross tuition.
2. We recommend that the maximum bond limitation of \$25,000 be abolished.
3. In order to avoid providing assistance for students to attend institutions that are near closing, the Committee recommends that the statutory requirement, "That a school should be financially sound and capable of fulfilling its commitments for training", be replaced with explicit and objective financial criteria. Schools should be expressly prohibited from carrying unearned tuition as a current asset, and should be required to carry the item as a current expense. Current assets should be required to exceed liabilities by a ratio of not less than one-to-one.
4. In order to detect failing institutions and provide whatever technical assistance is appropriate, the Committee recommends that schools having gross tuition revenue income exceeding \$25,000, be required to submit compiled and reviewed financial statements together with the previous two year's federal income tax returns, annually, to the State Auditor's Office for review.
5. We recommend that rules be implemented that make the school owner, if an individual, or the majority shareholder, if a corporation, personally liable for the payment of any unpaid tuition refunds; and

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We recommend that the willful failure to pay a tuition refund be declared a deceptive trade practice; and

We recommend that the current statute be amended to include criminal penalties, as (enumerated).

NOTE: Where the designation (enumerated) is employed, the reader is directed to the appropriate section of this Report for details and/or further clarification.

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**PROPOSED CONCURRENT RESOLUTION TO CONTINUE THE  
JOINT INTERIM COMMITTEE ON PROPRIETARY SCHOOLS  
FOR INTRODUCTION TO THE 72nd TEXAS LEGISLATURE**

WHEREAS, Chapter 32, Education Code, provides for the certification and regulation of proprietary schools by the Central Education Agency; and

WHEREAS, The chapter sets forth various criteria for certification, and the agency by rule has promulgated guidelines and minimum standards for the operation of proprietary schools in Texas; and

WHEREAS, Former students of some proprietary schools have questioned the effectiveness of state regulation in ensuring that all such schools provide quality course work and adequately prepare students for employment in a trade or profession; and

WHEREAS, The concerns raised by these citizens merit the continued attention of the Texas Legislature; now, therefore, be it

RESOLVED, That the 72nd Legislature of the State of Texas hereby request the lieutenant governor and the speaker of the house to continue, pursuant to their authority under House Concurrent Resolution 142, 71st Legislature, Regular Session, 1989, the Joint Interim Committee on Proprietary Schools as currently constituted; and, be it further

RESOLVED, That the committee shall be charged with the following responsibilities:

(1) to conduct a thorough examination of the policies and procedures currently used by licensing agencies to regulate proprietary schools;

(2) to monitor proprietary schools and licensing agencies for compliance with current law and with recommendations contained in the Report of the Joint Interim Committee on Proprietary Schools;

(3) to conduct research regarding the issue of consolidation, including the study of proposals that would centralize or coordinate regulatory authority for proprietary schools or establish a dual regulatory authority;

(4) assess the progress of various initiatives related to the proprietary school educational system, including the following amendments and resources:

(a) amendments contained in Chapter 813, Acts of the 71st Legislature, Regular Session, 1989;

(b) 1991 amendments to Chapter 61, Education Code, with regard to the resolution of United States Senate hearings on abuses in student aid programs and the United States Department of Education Inspector General's audit analysis;

(c) Resource Center for State Affairs Compendium, with regard to the data bank of 50-state proprietary school laws; and

(d) State Higher Education Executive Officers Association Directory, with regard to the 14-state initiative for proprietary school "model plans"; and, be it further

RESOLVED, That the committee have the power to issue process as provided in Section 301.024, Government Code; and, be it further

RESOLVED, That the committee have all other powers and duties provided to joint select committees by House Concurrent Resolution 142, policies and procedures adopted pursuant to the resolution, and Subchapter B, Chapter 301, Government Code.



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## ACKNOWLEDGMENTS

### THE JOINT INTERIM COMMITTEE ON PROPRIETARY SCHOOLS

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**Sen. Bill Haley**  
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Bell Helicopter Textron

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House of Representatives

**Greg Williams**  
Executive Director

**Judy Sexton, Adm. Researcher**  
Writer/Editor of Report  
Committee Clerk

In addition to the diligence of the Committee members and staff, a "Special Thanks" is extended to the following Sponsors and Contributors whose input was a valuable asset to the work of this Joint Interim Committee on Proprietary Schools. We commend them for their interest and support, and for sharing in the accomplishment of our joint task to improve the delivery system of vocational and technical education in Texas.

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---

## CONTRIBUTORS

ACCET	Carol Cataldo
Advanced Health Education Center	CBM Education Centers
Aims Academy	Paul D. Chartier
Ron Allen	City of McAllen
Lawrence F. Alwin	David Coers, Jr.
Linda Amezcuita	Wallace Collins
Felix J. Aquino	Commission on Law Enforcement
Beverly Arcaro	Computer Career Center
Dr. Vick Arnold	Dr. Emmett Conrad
Rosa M. Arriaga	Cooke County College
Edward Ashley	COPA
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Janice Bailey	Marvin Deane
Deborah Bartlett	Michael Deanovich
Bauder Fashion Institute	Adolfo de la Garza, Jr.
Dee Bednar	Juanita Del Los Santos
Mark S. Bell	Bert M. Diamondstein
Becky Berryhill	Bill Ditto
Better Business Bureau	Dr. Larry Dodds
John Biggar	Atty. Ernesto Dominquez
Bish Mathis Institute	Nick Dowling
Alma R. Blair	Rose Duenez
Atty. William A. Blakey	Bryan R. Duquette
Mike Blum	Jackie Dyer
BPIPSA	Kay Eggleston
Rose Quade Bonar	El Paso Community College
Dr. Glen Bounds	El Paso Industrial Development
Ronnie Bourland	John Etchieson
Mayor Othal Brand	Melinda Watts Evans
Robert Brown	Executive Secretarial School
Burlington Motor Carriers	Clyde Farrell
Gene Calhoun	Larry Farrow
Dr. Stanton Calvert	Marvin Felder
Paula Campbell	Dr. Dorothy Fenwick
Wilson S. Campbell	Jan Friedheim
Capitol City Trade & Technical Schools	Joe Garcia
Career Centers of Texas	Ramona A. Garcia
Jan Carroll	Dr. Omar Garza, MD
Jackie Caswell	GM Service Technology Group

Dr. Hiram Goad  
 Vicky Goff  
 Atty. Jay Goltz  
 Rene Gomez  
 Beverly Gooch  
 Atty. William Goodman  
 B. G. Grabow  
 Gil Gray  
 Steve Gregg  
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 J. F. Johnson  
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 Kelley Jones  
 Dr. Luther Joyner  
 Melissa Kalifa  
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 Atty. John D. Keller  
 Mike Kelly  
 Dave Krogseng  
 Randy Kuykendall  
 Mitchell Laine  
 Jerry R. Lawson  
 Learning Techniques  
 Gilbert Leal  
 Chuck Lee  
 Dr. Paul Lindsey

Lincoln Graduate Center  
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 Susan B. Lopez  
 Susan Lozano  
 Representative Eddie Lucio  
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 Mansfield Business School  
 Elbert Marcom  
 McAllen Chamber of Commerce  
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 Theresa McFarland  
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 Juan E. Mehia  
 Gerald L. Miller  
 Laura Molina  
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 Monkem Company, Inc.  
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 Shari Shivers  
 Jesse & Mary Francis Simon  
 Bill Skidmore  
 Calvin Smith  
 Joel H. Smith  
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 Southwestern Paralegal Institute  
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 Helen Speres  
 State Board of Barber Examiners  
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 Anna Strong  
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Rhonda Talley  
 Atty. Joseph W. Teague  
 Temple Junior College  
 TEA Sunset Advisory Commission  
 TAPOSEA  
 Texas Attorney General's Office  
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 Texas Department of Health  
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 Texas Guaranteed Student Loan Corp.  
 Texas Public Junior College Assn.  
 Texas State Auditor's Office  
 Dr. Alvin I. Thomas  
 Kathi Thomas  
 Thomas' School of Retail Floristry  
 Erin M. Thrash  
 Fred Toler  
 George Torres  
 Bill Tucker  
 Kathy Tyner  
 U.S. Department of Education  
 Univ. Cosmetology Arts & Sciences  
 University of Texas Pan-American  
 Upper Rio Grande PIC  
 Santos Urbina  
 Doris Vander Wiele  
 Linda Villegas  
 Bobby Vincent  
 Jackie Ward  
 Terry Weaver  
 John Weimer  
 Bill Wells  
 Dorothy G. Wells  
 Judy Wendt  
 Thomas West  
 Western Technical Institute  
 Dr. J. B. Whiteley  
 Prentiss Williams  
 Stanley Wright  
 William Yost  
 David Zuniga

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## DEFINITION OF TERMS

ACCET	Accrediting Council for Continuing Education and Training
Agency	Texas Education Agency
AICS	Association of Independent Colleges & Schools
BBB	Better Business Bureau
BPISPA	Board of Private Investigators and Private Security Agencies
Commissioner	TEA Chief Executive Officer
CRS	Congressional Research Service
COPA	Council of Postsecondary Accreditation
DCCCD	Dallas County Community College District
Director	Licensing Agency Chief Executive Officer
DPSVE	TEA Division of Proprietary Schools and Veterans Education
guarantor	agency guaranteeing student loans
ICOWS	Joint Interim Committee on Proprietary Schools
JTPA	Jobs Training Partnership Act
lender	financial institution making student loans
licensing agency or agencies	Board of Barber Examiners Board of Private Investigators and Private Security Agencies Department of Health Massage Therapy Registration Real-Estate Commission Texas Commission on Law Enforcement Standards and Education Texas Cosmetology Commission Texas Funeral Services Commission Texas Polygraph Examiner's Board
NACCAS	National Accrediting Commission of Cosmetology Arts and Sciences
NATTS	National Association of Trade & Technical Schools
PIC	Private Industry Council
PEC	Pre-Enrollment Catalog
FSAC	TEA Proprietary Schools Advisory Committee
S.B. 417	Senate Bill 417, Texas 71st Legislature
SACS	Southern Association of Colleges & Schools
SHEEO	State Higher Education Executive Officers Association
Sunset	Sunset Advisory Commission
Task Force	THECB Task Force on Associate Degrees for Proprietary Schools
TAPSOEA	Texas Association of Post Secondary Occupational Education Administrators
TAPS	Texas Association of Private Schools
TASP	Texas Academic Skills Program
TEA	Texas Education Agency
TGSLC	Texas Guaranteed Student Loan Corporation
THECB	Texas Higher Education Coordinating Board
USDE	United States Department of Education

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**APPENDICES**

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- Appendix C:** Texas Guaranteed Student Loan Corporation, "Your Future: A Practical  
Guide to Financing Your Future"
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# **Texas Proprietary School Act**

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Austin, Texas 78701**

**APPENDIX A**

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**STATE BOARD OF EDUCATION**  
*(State Board for Vocational Education)*

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 District 5

**ESTEBAN SOSA, San Antonio**  
 District 3

**W.N. KIRBY, Commissioner of Education**  
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of the  
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TEXAS PROPRIETARY SCHOOL ACTSUBCHAPTER A. TITLE AND PURPOSE

§32.01. Short Title. This Act shall be known as the "Texas Proprietary School Act."

§32.02. Purpose and Objectives. The aim in adopting this Chapter is to provide certification and regulation of proprietary schools in Texas.

SUBCHAPTER B. GENERAL PROVISIONS

§32.11. Definitions. The following words, terms, and phrases shall have the meaning ascribed to them in this section.

- (1) "Proprietary School," referred to as "school", means any business enterprise operated for a profit, or on a nonprofit basis, which maintains a place of business within the State of Texas, or solicits business within the State of Texas, and which is not specifically exempted by the provisions of this Chapter and:
  - (A) which offers or maintains a course or courses of instruction or study; or
  - (B) at which place of business such a course or courses of instruction or study is available through classroom instruction or by correspondence, or both, to a person or persons for the purpose of training or preparing the person for a field of endeavor in a business, trade, technical, or industrial occupation, or for avocational or personal improvement, except as hereinafter excluded.
- (2) "Owner" of a school means:
  - (A) in the case of a school owned by an individual, that individual;
  - (B) in the case of a school owned by a partnership, all full, silent, and limited partners;
  - (C) in the case of a school owned by a corporation, the corporation, its directors, officers, and each shareholder owning shares of issued and outstanding stock aggregating at least ten percent (10%) of the total of the issued and outstanding shares.
- (3) "School employee" means any person other than an owner, who directly or indirectly receives compensation from the school for services rendered.
- (4) "Representative" means a person employed by the school as defined herein, whether the school is located within or without the State of Texas, to act as an agent, solicitor, broker, or independent contractor to directly procure students or enrollees for the school by solicitation within or without this State at any place.



- (5) "Administrator" means the State Commissioner of Education or a person, knowledgeable in the administration of regulating proprietary schools, designated by the Commissioner to administer the provisions of this chapter.
- (6) "Notice to the school" means written correspondence sent to the address of record for legal service contained in the application for a certificate of approval. "Date of Notice" means the date the notice is mailed by the administrator.
- (7) "Support" or "supported" means the primary source and means by which a school derives revenue to perpetuate its operation.
- (8) "Person" means any individual, firm, partnership, association, corporation, or other private entity or combination thereof.
- (9) "Unearned tuition" means total tuition and fees subject to refund under Section 32.39, total tuition and fees collected from students currently enrolled, and total tuition and fees collected from prospective students.

### **§32.12. Exemptions.**

- (a) The following schools or educational institutions are specifically exempt from the provisions of this chapter and are not within the definition of "proprietary school":
  - (1) a school or educational institution supported by taxation from either a local or State source;
  - (2) nonprofit schools owned, controlled, operated, and conducted by bona fide religious, denominational, eleemosynary, or similar public institutions exempt from property taxation under the laws of this State, but such schools may choose to apply for a certificate of approval hereunder, and upon approval and issuance, shall be subject to the provisions of this chapter as determined by the administrator;
  - (3) a school or training program which offers instruction of purely vocational or recreational subjects as determined by the administrator;
  - (4) a course or courses of instruction or study sponsored by an employer for the training and preparation of its own employees, and for which no tuition fee is charged to the student;
  - (5) a course or courses of study or instruction sponsored by a recognized trade, business, or professional organization for the instruction of the members of the organization with a closed membership;
  - (6) private colleges or universities which award a recognized baccalaureate, or higher degree, and which maintain and operate educational programs for which a majority of the credits given are transferable to a college, junior college, or university supported entirely or partly by taxation from either a local or State source;

- (7) a school which is otherwise regulated and approved under and pursuant to any other law of the State, except as provided by Subsection (c) of this section;
  - (8) aviation schools or instructors approved by and under the supervision of the Federal Aviation Administration;
  - (9) a school which offers intensive review courses designed to prepare students for certified public accountancy tests, public accountancy tests, law school aptitude tests, bar examinations, or medical college admissions tests.
- (b) Schools offering a course or courses of special study or instruction financed and/or subsidized by local, state, or federal funds or any person, firm, association, or agency other than the student involved, on a contract basis and having a closed enrollment may apply to the Administrator for exemption of such course or courses from the provisions of this Chapter and such course or courses may be declared exempt by the Administrator where he finds the course or courses to be outside the purview of this Chapter.
- (c) If a State agency that issues a license or other authorization for the practice of an occupation elects not to regulate or approve courses that exceed the minimum education requirements for the issuance of the license or other authorization, the licensing agency shall enter into a memorandum of understanding with the Central Education Agency for the regulation of those excess course hours under this chapter. Any course taught under a letter of approval or other written authorization issued by the licensing agency before the effective date of the memorandum is authorized under State law until the course is reviewed by the Central Education Agency. The licensing agency may terminate the memorandum of understanding on notice to the Central Education Agency.

#### SUBCHAPTER C. GENERAL POWERS AND DUTIES

##### §32.21. Central Education Agency.

- (a) The Central Education Agency shall exercise jurisdiction and control of the system of schools, and it shall be the duty of the Commissioner of Education to carry out supervision of the provisions of this chapter, and to enforce minimum standards for approval of schools under the operating regulations and policies hereinafter set forth and as may from time to time be adopted pursuant to the provisions of this chapter.
- (b) The Central Education Agency shall prepare a comparison of the cost to a student of courses of instruction or training programs at proprietary schools to the cost to a student of similar courses or programs at schools that are exempt from this chapter under Section 32.12 of this code.
- (c) The agency may consult a recognized expert in a field of study for assistance in determining minimum program standards under this chapter for that field.

(d) The Central Education Agency and the Texas Higher Education Coordinating Board shall adopt a memorandum of understanding which develops guidelines for coordinating the regulation of proprietary schools and courses that are subject to Sections 61.301 through 61.317 and Chapter 32 of this code. The memorandum shall include provisions which:

- (1) clearly identify the responsibilities of each agency in regulating proprietary schools;
- (2) ensure that the rules adopted by both agencies pursuant to the memorandum of understanding are not duplicative or in conflict; and
- (3) establish procedures for ensuring that information affecting the proprietary school regulatory activities of both agencies is shared between the agencies.

**§32.22. The State Board of Education.** The State Board of Education shall adopt policies, regulations, and rules necessary for carrying out the provisions of this chapter after consultation with the Proprietary School Advisory Commission.

**§32.23. Proprietary School Advisory Commission.**

- (a) The Proprietary School Advisory Commission is created. The Commission shall be composed of nine members appointed by the State Board of Education for staggered terms of six (6) years expiring on January 31 of each odd-numbered year. If one of the commission members resigns or is otherwise unable to serve, a new member shall be appointed by the State Board of Education to fill the unexpired term. Four members of the Commission shall be "owners" or shall be "employees" employed in a managerial or executive capacity by the schools as defined in Section 32.11 of this Code and shall include at least one member from each of the following school areas: (1) trade and technical schools, (2) business schools, and (3) correspondence schools; of these four members, one shall be a person who owns or operates not more than two (2) proprietary schools in Texas; one member shall be a public school official; and four members shall be distinguished citizens of Texas who do not have a direct connection to vocational-technical training. All members appointed by the State Board of Education shall have been recommended by the Administrator to the State Board of Education. In making his recommendations, the Administrator shall consider any recommendations made to him by parties interested in the composition of the Advisory Commission. The attorney general and the director of the Texas Guaranteed Student Loan Corporation are ex officio members of the Advisory Commission.
- (b) The commission shall elect one member as chairman of the commission. A majority of the appointed members at the call of the chair shall organize and elect the other officers that the commission deems necessary.
- (c) The commission shall meet regularly in Austin at 10:00 a.m. on the second Tuesday of January, May, and September, and shall conduct special meetings at the call of the chair, the administrator, or upon the written petition of at least four members of the commission.

- (d) A member of the commission serves without compensation but upon presentation of a voucher signed by the chairman of the commission and approved by the administrator is entitled to receive reimbursement for actual expenses incurred while traveling on official commission business in accordance with the policy and regulations of the State of Texas.
- (e) A majority of the commission is a quorum for the conduct of business; provided, however, that no less than four voting members must concur in any matter before the commission.
- (f) The commission shall be advisory in nature. It shall act with the advice and assistance of the administrator and may hold hearings upon substantive changes in rules, regulations, and minimum standards. The advice of the commission with respect to the policies, regulations, minimum standards, and rules for carrying out the provisions of this chapter, shall be forwarded by the administrator to the State Board of Education.

**§32.24. Duties of Administrator.**

- (a) The administrator shall carry out the policies of this chapter and enforce the rules and regulations adopted by the State Board of Education. He shall also certify the names of those schools meeting the requirements for a certificate of approval.
- (b) The administrator may adopt and enforce temporary rules and regulations pursuant to the provisions of this chapter but the temporary rules and regulations are valid only until the next meeting of the State Board of Education.

**§32.25. Memorandum of Understanding for Regulation of Proprietary Schools.**

- (a) The Central Education Agency shall develop, in consultation with the Texas Guaranteed Student Loan Corporation and each state agency that regulates proprietary schools in this state, a comprehensive strategy to reduce default rates at the regulated proprietary schools and to improve the overall quality of the programs operated by these schools.
- (b) The Central Education Agency shall execute a memorandum of understanding outlining the strategy with the corporation and each state agency regulating proprietary schools and shall adopt rules to carry out its duties under this section. The Texas Guaranteed Student Loan Corporation shall adopt the memorandum of understanding as procedures of the corporation, and each agency by rule shall adopt the memorandum of understanding.
- (c) The memorandum of understanding shall:
  - (1) require the development and monitoring of indicators that identify schools that have excessive loan default rates, poor program performance, or both;
  - (2) require the sharing of specific information relating to the indicators between the Central Education Agency and the Texas Guaranteed Student Loan Corporation or other agency; and

- (3) require the application of specific sanctions by the Central Education Agency or by the Texas Guaranteed Student Loan Corporation or other agency, as appropriate, to lower the default rates, improve program performance or both.
- (d) If the Central Education Agency enters a memorandum of understanding with the Texas Guaranteed Student Loan Corporation related to the regulation of proprietary schools, the agency may require each proprietary school governed by this chapter to provide information to the agency that is necessary for the purposes of the memorandum of understanding.

#### SUBCHAPTER D. AUTHORIZED OPERATION OF SCHOOLS

##### §32.31. Certificate of Approval.

- (a) A school may not maintain, advertise, solicit for, or conduct any course of instruction in Texas before the later of:
  - (1) the 30th day after the date the school applies for a certificate of approval under this chapter; or
  - (2) the date the school receives a certificate of approval from the administrator.
- (b) Any contract entered into with any person for a course of instruction after the effective date of this chapter by or on behalf of any person operating any school to which a certificate of approval has not been issued pursuant to the provisions of this chapter, shall be unenforceable in any action brought thereon.

§32.32. Application for Certificate of Approval. Every proprietary school desiring to operate in the State of Texas or do business in the State shall make written application to the administrator for a certificate of approval. Such application shall be verified, be in such form as may be prescribed by the State Board of Education, and shall furnish the administrator such information as he may require.

§32.33. Criteria. The administrator may approve the application of such proprietary school when the school is found, upon investigation at the premises of the school, to have met the following criteria:

- (a) The courses, curriculum, and instruction are of such quality, content, and length as may reasonably and adequately achieve the stated objective for which the courses, curriculum or instruction are offered.
- (b) There is in the school adequate space, equipment, instructional material and instructor personnel to provide training of good quality.
- (c) Educational and experience qualifications of directors, administrators and instructors are adequate.

- (d) The school maintains a written record of the previous education and training of the applicant student and clearly indicates that appropriate credit has been given by the school for previous education and training, with the new training period shortened where warranted through use of appropriate skills or achievement tests and the student so notified.
- (e) A copy of the course outline; schedule of tuition, fees, refund policy, and other charges; regulations pertaining to absence, grading policy, and rules of operation and conduct; regulations pertaining to incomplete grades; the name, mailing address, and telephone number of the Central Education Agency for the purpose of directing complaints to the agency; the current rates of job placement and employment of students issued a certificate of completion; and notification of the availability of the cost comparison information prepared under Section 32.21(b) of this code through the Central Education Agency will be furnished the student prior to enrollment.
- (f) Except as provided by Section 32.40 of this code, on completion of training, the student is given a certificate by the school indicating the course and that training was satisfactorily completed.
- (g) Adequate records as prescribed by the administrator are kept to show attendance and progress or grades, and satisfactory standards relating to attendance, progress, and conduct are enforced.
- (h) The school complies with all local, city, county, municipal, state, and federal regulations, such as fire, building, and sanitation codes. The administrator may require such evidence of compliance as is deemed necessary.
- (i) The school is financially sound and capable of fulfilling its commitments for training.
- (j) The school's administrators, directors, owners, and instructors are of good reputation and character.
- (k) The school has, maintains, and publishes in its catalogue and enrollment contract, the proper policy for the refund of the unused portion of tuition, fees, and other charges in the event the student enrolled by the school fails to take the course or withdraws or is discontinued therefrom at any time prior to completion.
- (l) The school does not utilize erroneous or misleading advertising, either by actual statement, omission, or intimation as determined by the State Board of Education.
- (m) Such additional criteria as may be required by the State Board of Education.
- (n) The school does not use a name like or similar to an existing tax-supported school in the same area.
- (o) The school furnishes to the Central Education Agency the current rates of students who receive a certificate of completion and of job placement and employment of students issued a certificate of completion.

- (p) The school furnishes to the Central Education Agency for approval or disapproval student admission requirements for each course or program offered by the school.
- (q) The school furnishes to the Central Education Agency for approval or disapproval the course hour lengths and curriculum content for each course offered by the school.
- (r) The school does not owe a civil penalty under Section 32.611 of this code.

**§32.34. Issuance of Certificate of Approval: Renewal.**

- (a) The administrator, upon review of an application for a certificate of approval duly submitted in accordance with the provision of Section 32.32 and meeting the requirements of Section 32.33 of this chapter, shall issue a certificate of approval to the applicant school. The certificate of approval shall be in a form recommended by the commission and approved by the State Board of Education and shall state in a clear and conspicuous manner at least the following information:
  - (1) date of issuance, effective date, and term of approval;
  - (2) correct name and address of the school;
  - (3) authority for approval and conditions of approval, if any, referring specifically to the approved catalogue or bulletin published by the school;
  - (4) signature of the administrator or such person as may have been designated by him to administer the provisions of this chapter; and
  - (5) any other fair and reasonable representations that are consistent with this chapter and deemed necessary by the administrator.
- (b) The term for which a certificate of approval shall be issued shall not exceed one year.
- (c) The certificate of approval shall be issued to the owner of the applicant school and shall be nontransferable. In the event of a change in ownership of the school, a new owner must, at least thirty (30) days prior to the change in ownership, apply for a new certificate of approval.
- (d) At least thirty (30) days prior to the expiration of a certificate of approval, the school shall forward to the administrator an application for renewal. The administrator shall reexamine the school at the premises of the school and either renew or cancel the school's certificate of approval. If a school fails to file a complete application for renewal at least thirty (30) days before the expiration date of the certificate of approval, the school, as a condition of renewal, must pay, in addition to the annual renewal fee, a late renewal fee in an amount established by State Board of Education rule of at least \$100.

- (e) A school not yet in operation when its application for certificate of approval is filed may not begin operation until receipt of certificate of approval.
- (f) The administrator shall visit a school to reexamine the school for compliance with the criteria provided by Section 32.33 of this code not later than three months after the date a school begins operation or after a change in ownership of a school.

**§32.35. Denial of Certificate of Approval.**

- (a) If the administrator, upon review and consideration of an application for certificate of approval, shall determine the applicant to be unacceptable, the administrator shall set forth the reasons for denial, in writing, to the applicant.
- (b) Any applicant whose certificate of approval is denied shall have the right of appeal under Subchapter E of the chapter.

**§32.36. Revocation of Certificate of Approval.**

- (e) The Administrator may revoke an issued certificate of approval or place reasonable conditions upon the continued approval represented by the certificate. Prior to revocation or imposition of conditions upon a certificate of approval, the Administrator shall notify the holder of the certificate, in writing, of the impending action and set forth the grounds for the action. The Administrator may reexamine a school two or more times during each year in which a notice relating to the school has been issued or conditions have been imposed on the school under this subsection.
- (b) A certificate of approval may be revoked or made conditional if the Administrator has reasonable cause to believe that the school is guilty of a violation of this chapter or any rules and regulations promulgated hereunder.

**§32.37. Registration of Representatives.**

- (a) All representatives employed by a school shall register with the administrator. Application for registration may be made at any time and shall be based on information submitted in accordance with the provisions of Section 32.32 of this chapter.
- (b) Registration of a representative shall be effective upon receipt of notice from the administrator and shall remain in effect for a period not in excess of twelve (12) calendar months. Renewal of representative registration shall be in accordance with the renewal application form forwarded to the school by the administrator.
- (c) Denial or revocation of registration of a representative by the administrator shall be in accordance with the provisions of this chapter applicable to denial or revocation of a certificate of approval; provided, however, the administrator may deny, suspend, or revoke the registration of a representative who has been convicted of a felony, whether within or without the State of Texas.



- (d) Schools domiciled, or having their principal place of business outside the State of Texas that engage representatives to canvass, solicit, or contract with any person within the State of Texas, shall be subject to the requirements for registration of representatives.
- (e) The administrator shall deny registration of a representative who owes a civil penalty under Section 32.611 of this code.

**§32.38. Bond Requirements.**

- (a) Before a certificate of approval is issued under this chapter, a bond shall be provided by the school for the period during which the certificate of approval is issued, and the obligation of the bond shall be that neither a provision of this chapter nor any rule or regulation adopted pursuant thereto shall be violated by the school or any of its officers, agents, or employees. The bond shall be in the penal sum of \$5,000 or a multiple of \$5,000 that is not greater than \$25,000. The administrator shall determine the amount based on the evidence the school submits of its projected maximum total unearned tuition during the period of the certificate of approval. The bond shall be a corporate surety bond issued by a company authorized to do business in the State, conditioned that the parties thereto shall pay all damages or expenses which the State or any governmental subdivision thereof, or any student or potential student may sustain resulting from a violation. The bond shall be to the State to be used only for payment of a tuition refund due to a student or potential student. The bond shall be filed with the administrator and shall be in such form as shall be approved by the administrator.
- repealed* (b) ~~Before a representative may be registered under this Chapter, a bond in the penal sum of \$1,000 shall be provided by or for each representative for a period running concurrently with that of a school's certificate of approval, and the obligation of the bond shall be that neither a provision of this chapter nor any rule or regulation adopted pursuant thereto shall be violated, nor shall fraud or misrepresentation in securing the enrollment of a student be committed by the representative. The bond shall be a corporate surety bond issued by a company authorized to do business in the State, conditioned that the parties thereto shall pay all damages or expenses which the State, any governmental subdivision thereof, or any student or potential student may sustain resulting from a violation. The bond shall be to the State for the use and benefit of any student or potential student or governmental subdivision of the State which may suffer expense or damage by breach thereof. The bond shall be filed with the administrator and shall be in such form as shall be approved by the administrator.~~
- (c) In lieu of the corporate surety bond required in Subsection (a) of this Section, the school may, in the alternative, provide any other similar certificate or evidence of indebtedness as may be acceptable to the Administrator, provided that the Certificate or evidence of indebtedness meets all the requirements applicable to the corporate surety bond.
- (d) Schools domiciled, or having their principal place of business, outside the State of Texas, that engage representatives to canvass, solicit, or contract with any person within the State of Texas, shall be subject to the bond requirements of Subsection (a) of this Section.

- (e) The administrator, for good cause shown, as recommended by the commission and approved by the State Board of Education, may waive and suspend the requirements set forth in Subsections (e) and (c) of this Section with respect to schools operating wholly or in part under a federal grant where no tuition fee is charged to the student.

**§32.39. Refund Policy.**

- (e) As a condition for granting certification each school must maintain a cancellation and settlement policy which must provide a full refund of all monies paid by a student if:
- (1) the student cancels the enrollment agreement or contract within 72 hours (until midnight of the third day excluding Saturdays, Sundays, and legal holidays) after the enrollment contract is signed by the prospective student;
  - (2) the enrollment of the student was procured as a result of any misrepresentation in advertising, promotional materials of the school, or representations by the owner or representatives of the school.
- (b) As a condition for granting certification, each school must maintain a policy for the refund of the unused portion of tuition, fees, and other charges in the event the student, after expiration of the 72-hour cancellation privilege, fails to enter the course, or withdraws, or is discontinued therefrom at any time prior to completion, and such policy must provide:
- (1) refunds for resident courses will be based on the period of enrollment computed on the basis of course time expressed in clock hours;
  - (2) the effective date of the termination for refund purposes will be the earliest of the following:
    - (A) the last day of attendance, if the student is terminated by the school;
    - (B) the date of receipt of written notice from the student;
    - (C) ten school days following the last date of attendance;
  - (3) if tuition is collected in advance of entrance, and if, after expiration of the 72-hour cancellation privilege, the student does not enter the residence school, not more than \$100 shall be retained by the school;
  - (4) for the student who enters a residence course of not more than 12 months in length, terminates or withdraws, the school may retain \$100 of tuition and fees and the minimum refund of the remaining tuition will be:
    - (A) during the first week or one-tenth of the course, whichever is less, 90 percent of the remaining tuition;

- (B) after the first week or one-tenth of the course, whichever is less, but within the first three weeks of the course, 80 percent of the remaining tuition;
  - (C) after the first three weeks of the course, but within the first quarter of the course, 75 percent of the remaining tuition;
  - (D) during the second quarter of the course, 50 percent of the remaining tuition;
  - (E) during the third quarter of the course, 10 percent of the remaining tuition;
  - (F) during the last quarter of the course, the student may be considered obligated for the full tuition.
- (5) for residence courses more than 12 months in length, the refund shall be applied to each 12-month period, or part thereof separately;
  - (6) refunds of items of extra expense to the student, such as instructional supplies, books, student activities, laboratory fees, service charges, rentals, deposits, and all other such ancillary miscellaneous charges, where these items are separately stated and shown in the data furnished the student before enrollment, will be made in a reasonable manner acceptable to the administrator;
  - (7) refunds based on enrollment in residence schools will be totally consummated within 30 days after the effective date of termination;
  - (8) refunds for correspondence courses will be computed on the basis of the number of lessons in the course;
  - (9) the effective date of termination for refund purposes in correspondence courses will be the earliest of the following:
    - (A) the date of notification to the student if the student is terminated;
    - (B) the date of receipt of written notice from the student;
    - (C) the end of the third calendar month following the month in which the student's last lesson assignment was received unless notification has been received from the student that he wishes to remain enrolled;
  - (10) if tuition is collected before any lessons have been completed, and if, after expiration of the 72-hour cancellation privilege, the student fails to begin the course, not more than \$50 shall be retained by the school;

- (11) in cases of termination or withdrawal after the student has begun the correspondence course, the school may retain \$50 of tuition and fees, and the minimum refund policy must provide that the student will be refunded the pro rata portion of the remaining tuition fees and other charges that the number of lessons completed and serviced by the school bears to the total number of lessons in the course;
- (12) refunds based on enrollment in correspondence schools will be totally consummated within 10 days after the effective date of termination.
- (c) In lieu of the refund policy herein set forth, for programs of instruction not regularly offered to the general public, the State Board of Education may, for good cause shown, amend, modify, substitute, and/or alter the terms of such policy due to the specialized nature and objective of the subject school's course of instruction.
- (d) If the course of instruction is discontinued by the school and this prevents the student from completing the course, all tuition and fees paid are then due and refundable.
- (e) If a refund is not made within the period required by this section, the school shall pay interest on the refund for the interval beginning with the first day following the expiration of the refund period and ending with the day immediately preceding the date the refund is made. If the refund is made to a lending institution, the interest shall also be paid to that institution and applied against the student's loan. The commissioner of education annually shall establish the level of interest at a level sufficient to provide a deterrent to the retention of student funds. The Central Education Agency may exempt a school from the payment of the interest if the school makes a good faith effort to refund the tuition but is unable to locate the student. The school shall provide to the agency on request documentation of the effort to locate the student.
- (f) A proprietary school shall record a grade of "incomplete" for a student who withdraws but is not entitled to a refund under Subsection (b)(4)(F) of this section if the student requests the grade at the time the student withdraws and the student withdraws for an appropriate reason unrelated to the student's academic status. A student who receives a grade of incomplete may reenroll in the program during the 12-month period following the date the student withdraws and complete those incomplete subjects without payment of additional tuition.

**§32.40. Withholding Records.** A proprietary school may withhold a student's transcript or certificate of completion of training until the student has fulfilled his financial obligation to the school.

**§32.401. Approved Degrees.**

- (a) A proprietary school may offer an associate of applied arts or an associate of applied science degree approved by the Texas Higher Education Coordinating Board

- (b) A proprietary school may offer an applied technology degree, an occupational studies degree, or other degree approved by the Central Education Agency. The Central Education Agency shall have no authority to approve a degree title that uses "associate," "bachelor's," "master's," or "doctor's" in the title and shall consult with the Texas Higher Education Coordinating Board to ensure that the titles of degrees approved by the agency are distinctly different from the titles of degrees approved by the board.

#### SUBCHAPTER E. APPEAL

**§32.41. Hearing.** Should the applicant be dissatisfied with the denial of a certificate of approval by the Administrator, the applicant shall have the right to appeal the decision of the Administrator and request a hearing with the Administrator within fifteen (15) days after receipt of notice. Upon receipt of the request for a hearing, the Administrator shall set a time and place for said hearing and then send notice to the school of said time and place. Said hearing shall be held within thirty (30) days from the receipt of the request for a hearing. At said hearing, an applicant may appear in person or by counsel and present evidence to the Administrator in support of the granting of the permit specified herein. All interested persons may also appear and present oral and documentary evidence to the Administrator, concerning the issuance of a certificate of approval to the applicant school. Within ten (10) days after the hearing, the Administrator shall send notice to the school either affirming or revoking the denial of the certificate of approval.

#### **§32.42. Appeal.**

- (a) The administrator's decision may be appealed to a District Court in Travis County.
- (b) Repealed by Acts 1984, 68th Leg., 2nd C.S., p. 305, ch. 28, art. I, part D, § 10, eff. Sept. 1, 1984.
- (c) Unless stayed by the Court upon showing of good cause, the administrator's decision may not be superseded during the appeal.
- (d) Upon filing of the lawsuit, citation shall be served upon the administrator. Whereupon, the administrator shall cause to be made a complete record of all proceedings had before the administrator, and shall certify a copy of the proceedings to the Court. Trial before the Court shall be upon the basis of the record made before the administrator, and the Court shall make its decision based upon the record. The administrator's decision shall be affirmed by the Court if the Court finds substantial evidence in the record to justify the decision, unless the Court finds the order to be:
- (1) arbitrary and capricious, or
  - (2) in violation of the Constitution or laws of the State of Texas, or
  - (3) in violation of rules and regulations promulgated by the State Board of Education pursuant to the provisions of the Act.

- (e) The decision of the trial court shall be subject to appeal in like manner as any other civil lawsuit under the Texas Rules of Civil Procedure.
- (f) Appeals concerning revocation of certificates of approval shall be prosecuted in the same manner and under the same provisions as herein provided for appeals from denial of such certificates.

#### SUBCHAPTER F. CLASS ACTION SUITS

**§32.51. Class Action.** Any person or persons who shall be injured by an act taken or permitted in violation of this Act may, on behalf of himself or themselves and others similarly situated, maintain an action in any District Court of competent jurisdiction, regardless of the amount in controversy, for temporary or permanent injunctive relief, declaratory relief, or other relief, including damages, such action to be pursued in accordance with the provisions of Rule 42 of the Texas Rules of Civil Procedure; provided, however, that venue for any such action shall be in Austin, Travis County, Texas. A party filing such an action must give prompt notice to the Attorney General, who shall be permitted to join, upon application within 30 days, as a party plaintiff.

**§32.52. Notice.** In any class action permitted under this Act, the Court shall direct the defendant to serve upon each member of the class the best possible notice; and if required in the interest of justice, the Court may direct that individual notice be served upon all members of the class who can be identified through reasonable efforts. Such notice shall inform the recipient that he is thought to be a member of the class and, if so, he may enter an appearance and join in the suit, either for himself or through counsel.

**§32.53. Judgment and Costs.** The Court shall enter judgment in each class action brought under the provisions hereof in such form as shall be justified by the facts and the law applicable thereto. Damages shall be awarded only to those members of the class who joined as parties plaintiff, but all other relief granted by the Court shall inure to the benefit of all members of the class. Should a plaintiff prevail in such a class action, he shall be awarded court costs and a reasonable counsel fee in the judgment. A legal aid society or legal services program which represents the plaintiff or plaintiffs in such action shall be awarded a service fee in lieu of a counsel fee.

#### SUBCHAPTER G. PROHIBITED ACTS

**§32.61. Prohibitions.** No person shall:

- (1) operate a school without certificate of approval issued by the Administrator;
- (2) solicit prospective students without being bonded as required by this Chapter;
- (3) accept contracts or enrollment applications from a representative who is not bonded as required by this Chapter;

- (4) utilize advertising designed to mislead or deceive prospective students;
- (5) fail to notify the Administrator of the discontinuance of the operation of any school within 72 hours of cessation of classes and make available accurate records as required by this Chapter;
- (6) fail to secure and file within 30 days an increased bond as required by this Chapter;
- (7) negotiate any promissory instrument received as payment of tuition or other charge prior to completion of 75 percent of the course, provided that prior to such time, the instrument may be transferred by assignment to a purchaser who shall be subject to all the defenses available against the school named as payee;
- (8) violate any provision of this Chapter.

#### §32.611. Civil Penalty.

- (a) If a person violates Section 32.61 of this code, the administrator may assess a civil penalty against that person as provided by this section.
- (b) The administrator may assess the civil penalty in an amount not to exceed \$1,000. In determining the amount of the penalty, the administrator shall consider the seriousness of the violation.
- (c) If, after examination of a possible violation and the facts relating to that possible violation, the administrator concludes that a violation has occurred, the administrator shall issue a preliminary report that states the facts on which the conclusion is based, the fact that a civil penalty is to be imposed, and the amount to be assessed. Not later than the 10th day after the date on which the administrator issues the preliminary report, the administrator shall send a copy of the report to the person charged with the violation, together with a statement of the right of the person to a hearing relating to the alleged violation and the amount of the penalty.
- (d) Not later than the 20th day after the date on which the report is sent, the person charged must either make a written request for a hearing or remit the amount of the civil penalty to the administrator. Failure either to request a hearing or to remit the amount of the civil penalty within the time provided by this subsection results in a waiver of a right to a hearing under this section. If the person charged requests a hearing, the hearing shall be conducted in the same manner as a hearing on the denial of certificate of approval under Section 32.41 of this code. If it is determined after a hearing that the person has committed the alleged violation, the administrator shall give written notice to the person of the findings established by the hearing and the amount of the penalty and shall enter an order requiring the person to pay the penalty.

- (e) Not later than the 30th day after the date on which the notice is received, the person charged must pay the civil penalty in full or, if the person wishes to contest either the amount of the penalty or the fact of the violation, remit the assessed amount to the administrator for deposit in an escrow account. If, after judicial review, it is determined that no violation occurred or that the amount of the penalty should be reduced, the administrator shall remit the appropriate amount to the person charged with the violation not later than the 30th day after the date on which the judicial determination becomes final.
- (f) Failure to remit the amount of the civil penalty to the board within the time provided by Subsection (e) of this section results in a waiver of all legal rights to contest the violation or the amount of the penalty.
- (g) A civil penalty owed under this section plus reasonable attorney fees and court costs may be recovered in a civil action brought by the attorney general at the request of the administrator. Civil penalties recovered shall be deposited in the General Revenue Fund. Attorney fees and court costs shall be appropriated to the attorney general.

**§32.612. Competitive Bidding; Advertising.** The State Board of Education may not adopt rules to restrict competitive bidding or advertising by a proprietary school except to prohibit false, misleading, or deceptive competitive bidding or advertising practices. Those rules may not restrict:

- (1) the use of an advertising medium;
- (2) the size or duration of an advertisement; or
- (3) advertisement under a trade name.

**§32.62. Injunctions.**

- (a) Whenever the Administrator has probable cause to believe that any school has committed any acts that would be in violation of this Chapter, the Administrator shall have the duty to make application to a court of competent jurisdiction for an injunction restraining the commission of such acts.
- (b) An action for an injunction under this section shall be brought in Travis County.

**§32.63. Civil Penalty.**

- (a) A person who violates this chapter or a rule adopted under this chapter is liable for a civil penalty in addition to any injunctive relief or other remedy provided by law. The civil penalty may not exceed \$1,000 a day for each violation.
- (b) The attorney general, at the request of the Central Education Agency, may bring a civil action to collect a civil penalty under this section.
- (c) Civil penalties recovered in a suit brought under this section shall be deposited in the state treasury to the credit of the General Revenue Fund.



§32.64. Sanctions.

- (a) If the Central Education Agency has reasonable cause to believe that a proprietary school has violated this chapter or a rule adopted under this chapter, the agency may:
- (1) order a peer review of the school; or
  - (2) suspend the admission of students to the school.
- (b) A peer review ordered under this section shall be conducted by a peer review team composed of knowledgeable persons selected by the agency. The agency shall attempt to provide a balance on each team between members assigned to the team who are from this state and those who are from other states. The team shall provide the agency with an objective assessment of the content of the school's curriculum and its application. The costs of providing a peer review team shall be paid by the school.

SUBCHAPTER H. FEES§32.71. Certificate and Registration Fees.

- (a) Certificate and registration fees, except those charged pursuant to Subsection (d) of this section, shall be collected by the Administrator and deposited with the State Treasurer. Each fee shall be in an amount set by the Administrator and approved by the State Board of Education in an amount not to exceed 150 percent of each fee in the following schedule:

- (1) the initial fee for a school is \$1,700;
- (2) the first annual renewal fee for a school is \$1,400, and each subsequent annual renewal fee is based on the gross amount of annual student tuition and fees as follows:

Gross Amount, Student Tuition and Fees				Fee
		not more than	\$ 50,000	\$ 550
more than	\$ 50,000	but not more than	100,000	650
more than	100,000	but not more than	250,000	750
more than	250,000	but not more than	500,000	850
more than	500,000	but not more than	750,000	950
more than	750,000	but not more than	1,000,000	1,050
more than	1,000,000			1,150;

- (3) the initial registration fee for a representative is \$60;
- (4) the annual renewal fee for a representative is \$30;
- (5) the fee for a change of name of school or owner is \$100;
- (6) the fee for a change of an address of a school is \$180;

- (7) the fee for a change in the name or address of a representative or a change in the name or address of a school that causes the reissuance of a representative permit is \$10;
  - (8) the application fee for an additional course is \$150, except for seminar and workshop courses, for which the fee is \$25;
  - (9) the application fee for a director, administrative staff member, or instructor is \$15;
  - (10) the application fee for the authority to grant degree is \$2,000;
  - (11) the application fee for an additional degree course is \$250; and
  - (12) the fee for an inspection required by rule of the State Board of Education of classroom facilities that are separate from the main campus is \$250.
- (b) The commissioner of education shall periodically review and recommend adjustments in the level of fees to the State Board of Education and the legislature.
- (c) For purposes of this section, the gross amount of annual student fees and tuition for a proprietary school is the amount determined by the State Board of Education based on any report submitted by the school to the Central Education Agency or any other information obtained by the agency.
- (d) In connection with the regulation of any school or course through a memorandum of understanding pursuant to Section 32.12(c) of this code, the Administrator shall set an application and annual renewal fee, not to exceed \$2,000. The fee shall be approved by the State Board of Education to be an amount reasonably calculated to cover the administrative costs associated with assuming the additional regulation.
- (e) The fee for an investigation at a school to resolve a complaint filed against the school is \$400. The fee may be charged only if:
- (1) the complaint could not have been resolved by telephone or written correspondence only;
  - (2) a representative of the Central Education Agency visits the school as a part of the complaint resolution process; and
  - (3) the school is found to be at fault.
- (f) The Administrator, with the approval of the State Board of Education, may increase any fee authorized under this section at a rate not to exceed the increase in the National Consumer Price Index For All Urban Consumers. The calculation of the index in effect on September 1, 1989, shall be the base for calculating the rate at which fees may increase. Fee increases under this subsection do not have to be made annually.
- (g) All fees collected under this section shall be used only for the administration of the Texas Proprietary School Act.

SUBCHAPTER I. FUNDING§32.81. Funding.

- (a) The cost of administration of this Chapter shall be included in the State budget allowance for the State Board of Education.
- (b) Fees collected by the Administrator and deposited with the State Treasurer shall be used to help defray the cost and expense of administering the provisions of this Chapter.

SUBCHAPTER J. PROTECTION OF TUITION§32.91. Tuition Protection Fund.

- (a) At the time that each school pays its annual renewal fee, in the years provided by Subsection (c) of this section, the State Board of Education shall also collect a fee from the school for deposit to the credit of a special fund in the state treasury to be called the proprietary school tuition protection fund.
- (b) The amount of the fee is determined by applying a percentage to each school's annual renewal fee. The percentage is the rate as determined by the board that, when applied to the total of all renewal fees, will result in the collection of \$250,000 for deposit in the fund in the first two years that the fee is collected.
- (c) Beginning on January 1, 1990, the board shall collect the fee for two years. If on January 1, 1993, or any subsequent year the amount in the fund is less than \$200,000, the board shall collect a fee during that year by applying a percentage to each school's annual renewal fee at a rate that will bring the balance of the fund to \$250,000.
- (d) The state treasurer shall invest the fund in the same manner as other state funds. Sufficient funds from the tuition protection fund shall be appropriated to Central Education Agency Administration for the purpose outlined in this section.

§32.92. Closed School.

- (a) If a proprietary school closes, the Central Education Agency shall attempt to arrange for students of the closed school to attend another proprietary school.
- (b) The expense incurred by a school in providing a teachout that is directly related to educating a student placed in the school under this section, including the applicable tuition for the period of time for which the student has paid tuition, shall be paid from the proprietary school tuition protection fund.
- (c) If the student cannot be placed in another school, the student's tuition and fees shall be refunded under Section 32.39(d) of this code.

- (d) If a student does not accept a place that is available and reasonable in another school, the student's tuition and fees shall be refunded under the refund policy maintained by the closing school under Section 32.39(b) of this code.
- (e) If the amount of the closed school's bond under Section 32.38 of this code is less than the amount required for student refunds under Subsections (c) and (d) of this section, the refunds shall be paid from the proprietary school tuition protection fund in an amount not to exceed \$25,000.
- (f) If another school assumes responsibility for the closed school's students with no significant changes in the quality of training, the student is not entitled to a refund under Subsection (c) or (d) of this section.
- (g) Attorney's fees, court costs, or damages may not be paid from the proprietary school tuition protection fund.
- (h) This section takes effect January 1, 1992.

## COMPLIANCE STATEMENT

### **TITLE VI, CIVIL RIGHTS ACT OF 1964; THE MODIFIED COURT ORDER, CIVIL ACTION 5281, FEDERAL DISTRICT COURT, EASTERN DISTRICT OF TEXAS, TYLER DIVISION**

Reviews of local education agencies pertaining to compliance with Title VI Civil Rights Act of 1964 and with specific requirements of the Modified Court Order, Civil Action No. 5281, Federal District Court, Eastern District of Texas, Tyler Division are conducted periodically by staff representatives of the Texas Education Agency. These reviews cover at least the following policies and practices:

- (1) acceptance policies on student transfers from other school districts;
- (2) operation of school bus routes or runs on a non-segregated basis;
- (3) nondiscrimination in extracurricular activities and the use of school facilities;
- (4) nondiscriminatory practices in the hiring, assigning, promoting, paying, demoting, reassigning, or dismissing of faculty and staff members who work with children;
- (5) enrollment and assignment of students without discrimination on the basis of race, color, or national origin;
- (6) nondiscriminatory practices relating to the use of a student's first language; and
- (7) evidence of published procedures for hearing complaints and grievances.

In addition to conducting reviews, the Texas Education Agency staff representatives check complaints of discrimination made by a citizen or citizens residing in a school district where it is alleged discriminatory practices have occurred or are occurring.

Where a violation of Title VI of the Civil Rights Act is found, the findings are reported to the Office for Civil Rights, U.S. Department of Education.

If there is a direct violation of the Court Order in Civil Action No. 5281 that cannot be cleared through negotiation, the sanctions required by the Court Order are applied.

### **TITLE VII, CIVIL RIGHTS ACT OF 1964; EXECUTIVE ORDERS 11246 AND 11375; TITLE IX, 1973 EDUCATION AMENDMENTS; REHABILITATION ACT OF 1973 AS AMENDED; 1974 AMENDMENTS TO THE WAGE-HOUR LAW EXPANDING THE AGE DISCRIMINATION IN EMPLOYMENT ACT OF 1967; AND VIETNAM ERA VETERANS READJUSTMENT ASSISTANCE ACT OF 1972 AS AMENDED IN 1974.**

It is the policy of the Texas Education Agency to comply fully with the nondiscrimination provisions of all federal and state laws and regulations by assuring that no person shall be excluded from consideration for recruitment, selection, appointment, training, promotion, retention, or any other personnel action, or be denied any benefits or participation in any programs or activities which it operates on the grounds of race, religion, color, national origin, sex, handicap, age, or veteran status (except where age, sex, or handicap constitute a bona fide occupational qualification necessary to proper and efficient administration). The Texas Education Agency makes positive efforts to employ and advance in employment all protected groups.

Summary of Senate Bill 417  
Texas Education Agency Sunset Legislation

**Article IV. Proprietary Schools**

**Section 4.01 amends Section 32.11(9), Education Code, to redefine "un-earned tuition" as meaning total tuition and fees subject to refund.**

**Section 4.02 amends Section 32.12, Education Code, to provide that if a state agency that issues a license or other authorization for the practice of an occupation elects not to regulate course hours above the minimum requirements for the license or authorization, the licensing agency must enter into a memorandum of understanding with TEA for the regulation of the excess course hours. The licensing agency may terminate the memorandum of understanding upon notice to TEA.**

**Section 4.03 amends Section 32.21, Education Code, to require TEA to prepare a cost comparison of courses at proprietary schools and similar courses at other schools. TEA and the Texas Higher Education Coordinating Board must adopt a memorandum of understanding to coordinate the regulation of proprietary schools and courses. The MOU must identify the respective responsibilities of each agency, ensure that the rules adopted by the agencies are not duplicative or conflicting, and establish procedures to ensure that information regarding regulatory activities is shared between the agencies.**

**Section 4.04 amends Subsection 32.23(a), Education Code, to change the composition of the Proprietary School Advisory Commission so that one member instead of 3 must be a public school official, and four members instead of two must be distinguished citizens of Texas without a direct connection to vocational-technical training. In addition, the attorney general and the director of the Texas Guaranteed Student Loan Corporation are made ex officio members of the Advisory Commission.**

**Section 4.05 adds Section 32.25 to the Education Code to require TEA to develop a strategy to reduce default rates of students loans to proprietary school students and to improve the overall quality of programs offered by the schools. TEA must adopt a memorandum of understanding with the Texas Guaranteed Student Loan Corporation and all state agencies regulating proprietary schools in the state which will require development and monitoring of indicators that identify schools with high default rates or poor program performance, require the sharing of information relating to these indicators between TEA, TGS LC and the other agencies, and require the application of sanctions to lower default rates and improve program performance.**

**Section 4.06 amends Subsection 32.31(a), Education Code, to prohibit a school from maintaining, advertising, soliciting for, or conducting a course of instruction before the later of the 30th day after the date the school applies for a certificate of approval or the date the school receives a certificate of approval.**

**Section 4.07 amends Section 32.33, Education Code, to include several additional criteria that must be met, upon an on-site investigation,**

**APPENDIX B**

before an application is approved: (1) the school must furnish to students before enrollment information pertaining to incomplete grades; name, mailing address and telephone number of TEA for purposes of directing complaints; current rates of job placement and employment of graduated students; and notification of the availability of the cost comparison information; (2) the school must furnish to TEA the current rates of graduated students and of job placement and employment of such students; (3) the school must furnish to TEA for approval admission requirements for each course or program; (4) the school must furnish to TEA for approval the course hour lengths and curriculum content for each course; and (5) the school must not owe a civil penalty under Section 32.611, Education Code (for violation of prohibited acts in Section 32.61, such as operating without a certificate of approval or deceptive advertising).

Section 4.08 amends Section 32.34, Education Code, to require that examination of a school for the purposes of certificate renewal must take place on school premises, and to require that the administrator must visit a school for re-examination no later than 3 months after a school begins operation or changes ownership.

Section 4.09 amends Subsection 32.36(a) to allow the administrator to re-examine a school two or more times during a year in which the school has been given notice regarding revocation of a certificate of approval or conditions for continued approval.

Section 4.10 adds Subsection 32.37(e) to require the administrator to deny registration to a representative of a proprietary school who owes a civil penalty under Section 32.611, described above.

Section 4.11 amends Section 32.38, Education Code, to require a proprietary to provide a bond for an amount between \$5000 and \$25,000, dependent on the administrator's estimate of the school's projected maximum total unearned tuition. The bond will be used only for payment of a tuition refund due to a student or potential student.

Section 4.12 adds Subsections 32.39(e) and (f) to the Education Code to (1) require a school that does not make a tuition refund to a student within the required period to pay interest on the refund at a rate determined by the commissioner to be sufficient to deter retention of student funds, unless the school can document its good faith efforts to locate the student; and (2) require a school to record an "incomplete" grade for students who withdraw but who are not entitled to refunds because the student withdrew during the last quarter of the course. A student who receives an "incomplete" may reenroll within a year after he withdraws, and may complete the incomplete subjects without paying additional tuition.

Section 4.13 amends Section 32.40, Education Code, to allow a proprietary school to withhold a student's transcript if the student owes money to the school.

Section 4.14 adds Section 32.401 to the Education Code to allow a proprietary school to offer an associate of applied arts or associate of applied science degree approved by the Texas Higher Education Coordinating Board, and/or offer an applied technology degree, occupational studies degree, or other degree approved by TEA. TEA may not approve a degree title using the word "associate", "bachelor's", "master's" or "doctor's", and must consult with the Coordinating Board to ensure that TEA-approved degree titles sound distinctly different from Coordinating Board-approved degree titles.

Section 4.15 amends Section 32.61, Education Code, to delete the provision that the prohibited acts of Section 32.61 constitute a misdemeanor carrying a fine of no more than \$500.

Section 4.16 adds Section 32.611 to the Education Code to provide for civil penalties for the violation of Section 32.61. The administrator may assess a fine of no more than \$1000 after issuing a preliminary report to the person charged with the violation and a statement of the person's right to a hearing. The person charged with the violation must either pay the fine or request a hearing within 20 days after the notice is sent, or his right to a hearing will be waived. 30 days after notice of the finding of a hearing is received, the person must pay the full amount of the fine, which will be placed in escrow if the violation or the amount of the fine is contested. Civil penalties recovered will be placed in General Revenue.

Section 4.17 adds Section 32.612 to the Education Code to prohibit the State Board of Education from adopting rules restricting competitive bidding or advertising, except to prohibit deceptive practices. Board rules may not restrict the use of a type of advertising medium, size or duration of an ad, or advertisement under a trade name.

Section 4.18 amends Section 32.62, Education Code, to provide that an action for an injunction restraining a school from committing prohibited acts must be brought in Travis County.

Section 4.19 adds Section 32.63 to the Education Code to establish liability for a civil penalty of no more than \$1000 for a person violating Chapter 32 or any rule adopted under the chapter, in addition to injunctive relief or other legal remedy. The attorney general can bring a civil action to collect the civil penalty.

Section 4.20 adds Section 32.64 to the Education Code to allow sanctions of peer review or suspension of admissions for schools suspected of violating Chapter 32 or rules adopted under it. The peer review will be paid for by the school, and the peer review team will be com-



posed of persons selected by the agency, with a balance of Texas and non-Texas members.

Section 4.21 amends Section 32.71, Education Code, to establish that certificate and registration fees must be set by the administrator and approved by the State Board at an amount not to exceed 150% of the amount set by statute. The initial school fee is \$1700; the first annual renewal fee is \$1400, and subsequent renewal fees are set up in the fee schedule in the current law amounts (although numbers are different from current statute to reflect changes previously made in the 1987 appropriations bill). The fee for inspection of separate classroom facilities is \$250; the fee for additional regulation under 32.12(c) (Section 4.02 of the bill) is no more than \$2000; and the fee for an investigation to resolve a complaint that requires an on-site visit when the school is found to be at fault is \$400. The administrator cannot increase a fee at a rate more than the increase in the National Consumer Price Index.

Section 4.22 adds Subchapter J to Chapter 32 of the Education Code to establish the Proprietary School Tuition Protection Fund. A fee will be collected from each school, beginning 1/1/90, along with its annual renewal fee, and is determined by using a percentage of the school's renewal fee. The percentage is at a rate that will result in two years in the collection of \$250,000 from the schools. The state treasurer will invest the fund in the same manner as other state funds. If a proprietary school closes and its students are placed in another proprietary school, the expense of teaching those students will be paid out of the tuition protection fund, or if a student cannot be placed in another school his tuition will be refunded under Section 32.39(d), Education Code. If a closed school's bond under Section 32.38 (Section 4.11 of the bill) is less than what is required for student refunds, the refunds will be paid from the tuition protection fund in an amount not to exceed \$25,000. The section on closed schools takes effect 1/1/92.

Sections 4.23 through 4.30 amend Articles 4413(29c), 6687b, and 6701d to transfer the regulation of driver training courses from DPS to TEA, including truck-driving, regular driver training, defensive driving and the licensing of driver training instructors. TEA will distribute uniform certificates for defensive driving and receive a \$1 fee per certificate to be placed in a fund to be used for the cost of the certificate and for regulation of proprietary schools. TEA must adopt a memorandum of understanding with the State Board of Insurance for development of a curriculum for driver training courses.

Section 4.31 clarifies that the changes made in Subsection 32.23(a) by this bill (Section 4.04) will not affect the terms of current members of the Proprietary School Advisory Commission.

Section 4.32 requires that the memorandum of understanding between TEA, TGS LC, and other agencies regarding loan defaults and poor program performance (Section 4.05 of this bill) must be adopted by 8/31/90.

Section 4.33 creates an interim committee to evaluate the system used to regulated courses offered by proprietary schools. The committee must report findings to the 72nd Legislature. The committee must consider the policies of TEA, the Coordinating Board, and other involved agencies regarding proprietary school programs including on-site evaluation of facilities, qualifications and continuity of staff, student admission and recruitment procedures, placement of proprietary school graduates, counseling and support services for students, loan default rates, dropout rates, reasonableness of requiring schools to distribute cost comparison information, consistency of course hour lengths and content between proprietary schools and other schools, and uses of degrees by proprietary schools. The committee will consist of the House Higher Education Committee chair; the House Public Education Committee chair; the Senate Education Committee chair; the Coordinating Board chair; the TEA commissioner; one senator, one proprietary school owner, and two public members appointed by the Lieutenant Governor; and one representative, one proprietary school owner and two public members appointed by the speaker.

Section 4.34 provides for a transition period for the phasing out of associate of applied arts and associate of applied science degree programs. Schools may continue to enroll students in those degree programs up to the 4th anniversary of the effective date of Section 32.401, Education Code (Section 4.14 of this bill).

Section 4.35 repeals Subsection 32.38(b), Education Code, relating to bond requirements for proprietary school representatives.

Section 4.36 provides that Section 4.23 of the bill, dealing with certificates for driver training schools, applies to applications filed or inspections made one or after the effective date of the bill.

**COMPARISON OF THE TEXAS PROPRIETARY SCHOOL ACT  
BEFORE AND AFTER SEPTEMBER 1, 1989, EFFECTIVE DATE OF SENATE BILL 417**

**SENATE BILL 417 AND STATE BOARD  
OF EDUCATION RULES**

**STATUTORY REQUIREMENTS PRIOR TO  
SENATE BILL 417**

**IMPROVED PROGRAM QUALITY**

Experts used in determining  
minimum program standards  
[§4.03/§69.127(b)(6)]

None

Admission requirements, course  
length, curriculum content must be  
approved/disapproved  
[§4.07/§69.127(b)(2)(A)]  
Rule proposed to set program  
standards

Minimal requirements - content and  
length must reasonably and adequately  
achieve stated objectives.

Peer review of school  
operation/program  
[§4.20/69.125(g)(1)]

None

MOU with TGSLE and other state  
agencies to reduce defaults/improve  
program quality  
[§4.05]

None

MOU to develop curriculum for driving  
safety courses  
[§4.27]

None

**GREATER ENFORCEMENT AUTHORITY**

Suspension of enrollments  
[§4.20/§69.125(g)(2)]

None

Assessment of civil penalties  
[§4.16/§69.125(g)(3)]

None

Interest on late refunds  
[§4.12/§69.127(b)(5)(G)]

None

On-site survey within three months  
after licensure  
[§4.08]

None

**MORE CONSUMER INFORMATION**

Cost comparison studies  
[§4.03/§69.127(b)(2)(E)(iv)]

None

Information about incomplete grades,  
complaints, and cost comparison  
availability prior to enrollment  
[§4.07/§69.127(b)(2)]

Agency address and telephone  
information given to students to file  
complaints if necessary

Placement and employment rates  
[§4.07/§69.127(b)(14)]

None

**SENATE BILL 417 AND STATE BOARD  
OF EDUCATION RULES**
**STATUTORY REQUIREMENTS PRIOR TO  
SENATE BILL 417**
**MORE CONSUMER PROTECTION**

Advisory commission - added Attorney  
General and Guarantee Agency  
[§4.04/§69.2(a)]

Representatives of schools (4);  
public schools (3); citizens (2)

Associate degree programs regulated  
by the Coordinating Board, new  
degrees available to proprietary  
schools under Agency regulation  
[§4.14/§69.129)]

Associate degree programs regulated  
by the Agency but not mentioned other  
than fees in statute

Collection of fees to establish  
tuition protection fund  
[§4.22/§69.128(g)]

None

Administration of tuition protection  
fund  
[§4.22/§69.125]

None

**GENERAL LEGISLATIVE CHANGES**

MOU with the Coordinating  
Board regarding dual  
regulation of degree granting schools  
[§4.03]

None

Thirty day wait from application for  
school approval  
[§4.06]

None

Bond amounts - \$5,000, \$10,000 etc.  
to \$25,000.  
[§4.11/§69.122]

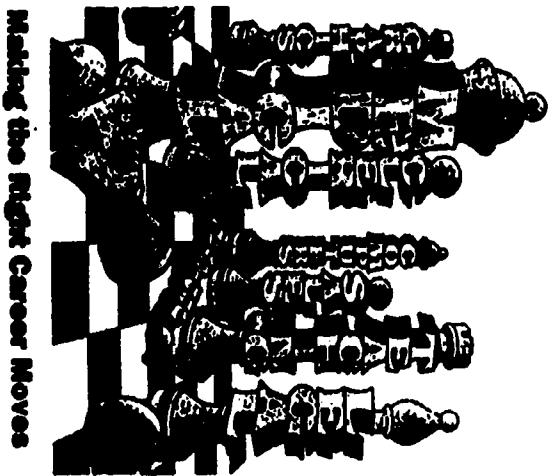
\$5,000 and \$25,000 only

Authority for State Board of  
Education to increase fees up to 50%  
[§4.21/§69.128(d)]

Fees set by statute - no increase  
authorized

Regulation of the commercial driving  
school sector  
[§4.23-§4.29/Chapter 69 Subchapter B]

None



# Your Future

Texas Guaranteed Student Loan Corporation

## **TGSLC**

**The Texas Guaranteed Student Loan Corporation is a public, nonprofit corporation created by the Texas Legislature to administer the Guaranteed Student Loan programs in Texas. Its primary responsibilities are to provide access to higher education for those eligible borrowers who desire it, to provide lenders a 100% guarantee on funds they provide for education loans, and to coordinate administration of federal student loan programs in the state. Created in 1979, the Corporation has guaranteed some \$3.4 billion dollars in loans to over 765,000 borrowers.**

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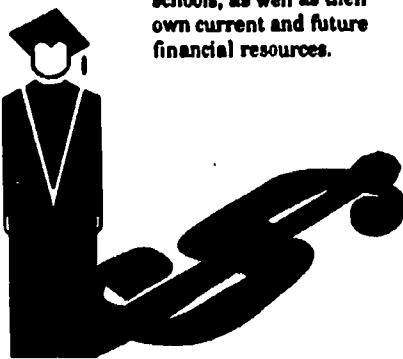
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## Careers and Higher Education

If you're considering continuing your education after high school, you have a lot to think about--such things as choosing a job or career path to follow, selecting a school where you want to pursue your education or training, and finding a way to pay for your education. These are decisions you and your family will be making in the next few months. They are major decisions. Decisions which deserve careful consideration. Decisions which require making choices. And that is why the Texas Guaranteed Student Loan Corporation published this booklet--to provide you with information to help you make more informed decisions about your choices in postsecondary education.

### *How does choosing a job or career relate to financing an education?*

College and training programs today are expensive; and, for the most part, students and parents are expected to pay for these costs. Some financial aid may be available to assist families with education costs, but it should be expected to supplement their funds, not to cover all expenses. Often grants and scholarships are not enough, and families must borrow to meet education expenses. Career planning helps families evaluate the student's future income potential and costs of suitable schools, as well as their own current and future financial resources.



This helps them decide how much they can afford for education.

### *Why is choosing a school so important?*

Several thousand schools throughout the world, over 300 in Texas alone, offer federally and state funded grant and loan programs. Selecting an appropriate institution to prepare you for the field you've chosen requires careful evaluation of such things as academic programs, facilities, faculty, financial aid programs and policies, housing and job placement. Costs of schools vary widely; so does available financial aid. The student and family must choose what type and what quality education they want and can afford in order to achieve the goals they've set. Choosing the wrong school could be a waste of your time and money, a waste of student aid, and a debt you don't want if you had to borrow to attend.

## Qualifying for Financial Aid

### *Will I be eligible to receive financial aid?*

In the 1987-88 school year, it was estimated that almost \$25 billion dollars of financial aid was awarded to students for postsecondary education. Of this, \$11 billion was in the Guaranteed Student Loan Program.

The purpose of financial aid is to provide equal educational opportunities for all Americans. Financial aid assists students who need help with the costs of advanced training. For some students, this means the difference between being able to continue their education or not; for others, it means being able to attend the school of their choice.



Most financial aid is awarded to families on the basis of eligibility or "need", which is determined by the school you attend. "Need" for most programs equals "Estimated School Costs" less "Expected Family Contribution." "Estimated School Costs" are projected by individual schools based on budgets which may include tuition, fees, books, housing, transportation, personal expenses, and other costs. The "Expected Family Contribution" is based on the student's dependency status, the family's size, income, assets, expenses, and the number enrolled in postsecondary education. It is usually determined by independent need analysis companies, using methods approved by the U.S. Department of Education. This helps insure that all students in the country are treated equally, using the same standards of measurement, regardless of where they live or plan to attend school.

As you can see, so many factors go into the "need" analysis that it's difficult to tell who will qualify until an application is completed and evaluated. Each year many who would qualify either fail to receive aid because they don't apply or decide wrongly that they aren't eligible. Don't pass up the opportunity provided to you by available financial aid for your education - make the effort to apply.

#### **OK, so what do I need to do?**

- First and foremost, start early!
- Ask your high school counselor for information on career choices, schools, and financial aid.
- Learn everything you can about the schools you are considering.
- Contact the school's financial aid office for information on assistance programs, application procedures and forms, deadlines, and awarding policies.
- Complete the forms and follow their procedures accurately and on time.
- Talk to the financial aid counselor if you have problems or unusual circumstances.
- Look at all your choices carefully!



# Financial Aid and Education

## Applying for Financial Aid

With all the grants, work-study and loan programs available, how do you know where and how to apply and what you might qualify for?

Your high school counselor can help you with general information and application forms, particularly on community-sponsored programs. The financial aid administrators at postsecondary schools you are considering can give you the specifics on programs at their schools. They, too, can give you application forms and help you design financial aid plans to best meet your needs and qualifications.

If you are eligible for financial aid, more than likely you will be offered a combination of programs. You and your family can then decide on what school and which awards to accept.

In general, scholarships and grants are considered "gift" aid. They are best because they don't have to be paid back. Usually, scholarships are given for merit in academics, athletics, or a particular field of study. Grants are given to students judged to be needy under formulas established by the federal government and/or the school.

Work-study programs combine jobs for students with their education. These programs help students to fulfill the American tradition of "working one's way through school." Pay is based on federal minimum wage standards, but varies with job requirements, skill, and experience levels.

Loans are student aid that must be paid back. They, too, use the tradition of "working one's way through school"; but school is completed first, with the work coming later to earn the money to pay back the loan.

## The Student Loan Process



Student

- Chooses school
- Completes forms and need analysis
- Receives financial aid award choices
- Decides whether or not to borrow
- Completes loan application
- Submits application to school



- Checks application for compliance with law, regulation and policy
- Guarantees or denies application
- Notifies borrower, lender, school of approval or denial



School

- Certifies School Section of application
- Returns application to borrower or forwards to borrower's lender



Lender

- Prepares check
- Delivers check to school for Stafford and SLBs; to borrower for PLUSs



School

- Releases check to student if eligibility is maintained.



Lender

- Decides whether or not to make loan
- Completes Lender Section of application
- Forwards application to TGSIC for review



- Repays the loan.

Student

TGSIC loans are made through a partnership arrangement involving schools, lenders, TGSIC, and the federal government. Schools determine the eligibility of students and parents for loans, private lenders provide money for the loans, TGSIC reviews applications and guarantees the loans, and the federal government subsidizes and reinsures the loans.

Loan programs offer different interest rates and repayment terms. Families must decide which loans and which lending institutions offer the most favorable terms, much as they would when shopping for a car or home loan.

Of course, you should seek out scholarships, grants, and other forms of assistance that do not require repayment before taking out a loan. And, don't forget to check out all your possibilities for help - your parents and relatives, your summer savings, cooperative education programs, and part-time jobs.

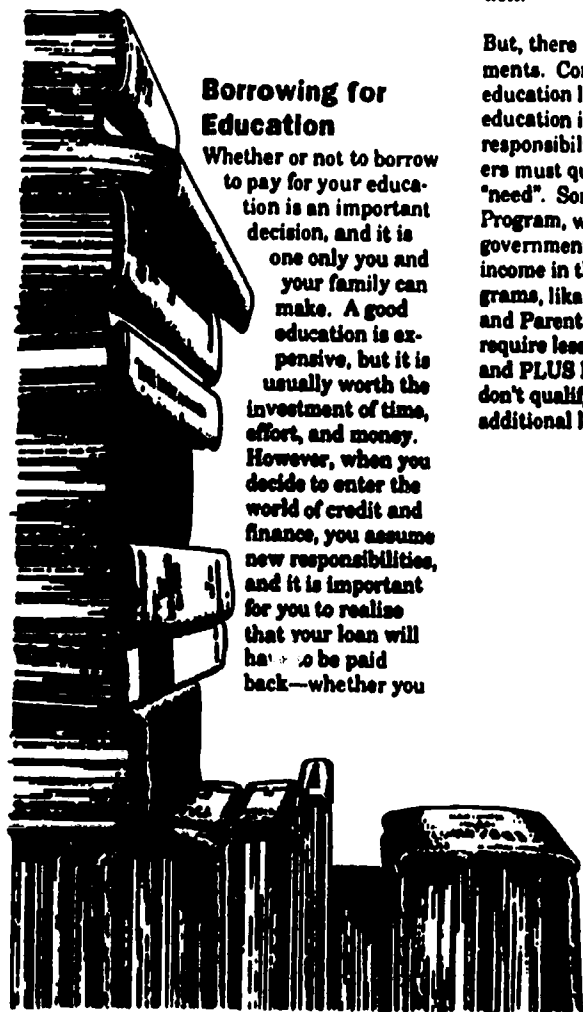
finish school or not, whether you can find a job or not, whether you feel you received the education or services you paid for or not. A loan is a financial obligation that won't go away until it is paid in full.

Stafford Loans and other government-sponsored education loans are a "good deal" if you decide to borrow to help pay for your education. They are better than traditional consumer loans because they offer lower interest rates and extended repayment terms, require no collateral, and help students and parents with the costs of education.

But, there are certain eligibility requirements. Congress decided to limit access to education loans because paying for an education is considered to be the primary responsibility of individual families. Borrowers must qualify based on eligibility or "need". Some programs, like the Stafford Program, which is heavily subsidized by the government, consider a family's assets and income in the "need" analysis. Other programs, like the Supplemental Loan (SLS) and Parent Loan (PLUS) Programs, which require less federal subsidy, do not. The SLS and PLUS Programs are for students who don't qualify for Stafford Loans or who need additional loan funds.

### Borrowing for Education

Whether or not to borrow to pay for your education is an important decision, and it is one only you and your family can make. A good education is expensive, but it is usually worth the investment of time, effort, and money. However, when you decide to enter the world of credit and finance, you assume new responsibilities, and it is important for you to realize that your loan will have to be paid back—whether you



# Planning for Your Debt

## Managing Your Debt

Managing your finances may be a new experience for you. It is a big responsibility. Planning should begin before you take out your first loan and should cover both your in-school period and your expected repayment period. By developing budgets to cover both the time you are in school and the period after graduation, you can make an educated decision about how much you will need to borrow for your training and how much you

can "afford" to borrow and realistically expect to repay.

Generally, a manageable level of education debt payment is considered to be from 8% to 15% of your first year's gross income.

Debt above the 15% level is no excuse, however, for failing to repay your education loan.

Annual In-School Budget Guide	After Graduation Budget Guide
<b>I. Income</b> a. Employment \$ _____ b. Financial Aid \$ _____ c. Savings \$ _____ d. Family \$ _____ <b>Total</b> \$ _____	<b>I. Income</b> a. Annual Salary \$ _____ Minus Taxes \$ _____ (approx. 25%) b. Net Income \$ _____ c. Monthly Income \$ _____ after taxes (net income divided by 12)
<b>II. Moving Expenses</b> a. Deposits \$ _____ b. Household Items \$ _____ c. Food \$ _____ <b>Total</b> \$ _____	<b>II. Moving Expenses</b> a. Deposits \$ _____ b. Household Items \$ _____ c. Food \$ _____ <b>Total</b> \$ _____
<b>III. Monthly Expenses</b> a. Rent \$ _____ b. Combined Utilities \$ _____ c. Groceries \$ _____ d. Transportation \$ _____ e. Credit Cards \$ _____ f. Insurance \$ _____ g. Medical Expenses \$ _____ h. Entertainment \$ _____ i. Emergency Fund \$ _____ j. Miscellaneous \$ _____ <b>Total</b> \$ _____	<b>III. Monthly Expenses</b> a. Rent \$ _____ b. Combined Utilities \$ _____ c. Groceries \$ _____ d. Auto Expenses \$ _____ e. Loan Repayments \$ _____ f. Credit Cards \$ _____ g. Insurance \$ _____ h. Medical Expenses \$ _____ i. Entertainment \$ _____ j. Emergency Fund \$ _____ k. Miscellaneous \$ _____ <b>Total</b> \$ _____
<b>IV. School Expenses</b> a. Tuition/Fees \$ _____ b. Books/Supplies \$ _____ c. Membership Dues \$ _____ d. Other \$ _____ <b>Total</b> \$ _____	

## Your Credit History

- Everyone who borrows money has a credit history.
- Education loans are borrowing money.
- Education loans affect credit history.

Education loans can provide money you need for your education while giving you the chance to begin a credit history of your own. Student loan lenders report borrowers' repayment records to credit bureaus. Future creditors from whom applicants wish to borrow then refer to this record. Having a positive credit history improves your ability to borrow again when you need to.

## Payment Amounts for Selected Interest Rates (for each \$1,000 Borrowed)

The accompanying chart can help you determine the approximate amount you will be expected to pay each month on your education loan. Use it to help you decide how much to borrow for your education. Amounts for several interest rates and time periods are shown. Locate the line with the interest rate you expect to receive on your loan and follow it across to the column with the number of months you plan to take to repay your loan. Multiply the amount shown times the amount you will borrow in thousands. (If you expect to borrow \$5,000, multiply by 5; if \$8,000, by 8.)

*For example: to compute the monthly payment on a \$4,000 loan at 8% interest, go to the 8% interest rate line. Then move across and multiply any number times 4 (for \$4,000 borrowed). If you expect to repay your loan in 5 years (or 60 months), your payment would be 4 x \$20.28 or \$81.12 per month. If this payment seems too high, try a longer repayment term, say 7 years (or 84 months). Then your payment would be 4 x \$15.59 or \$62.36 per month. Your lender may allow you up to ten years to repay loan but must schedule payments of at least \$50 per month.*

Repayment Period					
Interest Rate	12 mo.	24 mo.	36 mo.	48 mo.	60 mo.
7%	86.53	44.77	30.88	23.95	19.80
8%	87.45	45.65	31.80	24.69	20.76
9%	88.38	46.51	32.74	25.64	21.74
10%	89.31	47.38	33.68	26.59	22.72
11%	90.24	48.25	34.62	27.54	23.70
12%	91.17	49.12	35.56	28.49	24.68
Interest Rate	72 mo.	84 mo.	96 mo.	108 mo.	120 mo.
7%	17.05	15.09	13.63	12.51	11.61
8%	18.03	16.09	14.65	13.54	12.67
9%	19.03	17.12	15.71	14.63	13.77
10%	20.03	18.15	16.78	15.72	14.87
11%	21.03	19.18	17.85	16.81	15.97
12%	22.03	20.21	18.92	17.90	17.07

# So . . . What Are My Options?

## Financial Aid Programs in Texas

### Federally Sponsored Programs

Financial aid programs funded by the federal government available to students attending postsecondary schools in Texas include:

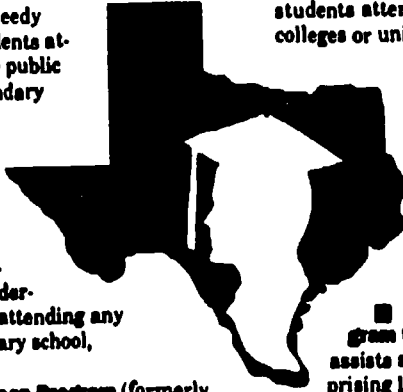
- **The Pell Grant**, which assists financially needy undergraduate students attending any eligible public or private school,

- **The Supplemental Education Opportunity Grant**, which assists financially needy undergraduate students attending any eligible public or private postsecondary school,

- **The College Work Study Program**, which provides employment opportunities for financially needy undergraduate students attending any eligible postsecondary school,

- **The Perkins Loan Program** (formerly the National Direct or Defense Student Loan Program - NDSL), which provides long term, low interest loans to financially needy students attending any eligible postsecondary school, and

- **The Guaranteed Student Loan programs**, administered in Texas by the Texas Guaranteed Student Loan Corporation, which guarantees loans made by the private sector and through the Hinson-Hazlewood Program to students attending eligible postsecondary schools. The Guaranteed Student Loan Programs include: Stafford Loans, Supplemental Loans for Students (SLS), and Parent Loans (PLUS).



### State Sponsored Programs

The State of Texas provides four general grant programs and a loan program for students attending college in Texas. These are:

- **The Tuition Equalization Grant Program**, which assists students attending a private college or university in Texas,

- **The Texas Public Educational Grant Program**, which assists financially needy students attending one of the state's public colleges or universities,

- **The State Student Incentive Grant Program**, funded through a mix of state and federal funds, which helps students attending any of the state's public or private higher education institutions, and

- **The State Scholarship Program for Ethnic Recruitment**, which assists students of an ethnic group comprising less than 40% in the enrollment at a particular senior college located in Texas, and

- **The Hinson-Hazlewood College Student Loan Program**, which helps Texas students attending eligible accredited public or independent nonprofit institutions of higher education and some students attending proprietary schools. The Hinson-Hazlewood Program was formerly known as the Texas Opportunity Plan and is sometimes referred to as the TOP loan.

In addition to these programs, the State of Texas also offers a variety of student financial aid programs designed to meet the needs of particular groups. These include, but are not limited to, programs for teacher education students, medical and other health profession students, handicapped students, students who are children of disabled or deceased firemen and peace officers, students who are children of prisoners of war or persons missing in action, and high ranking high school graduates. Texas also offers tuition exemptions and tuition waivers for certain students.

To obtain more information on these programs, or to apply for financial aid through any of these programs, contact the financial aid office at the school you plan to attend, your high school guidance counselor, the Texas Higher Education Coordinating Board, or the Texas Guaranteed Student Loan Corporation.



### **Military Financial Aid Programs**

The United States Military recruits members actively through several education benefit plans. Most programs are available for both active duty personnel and for the reserves (National Guard).

- The New GI Bill
- The Veterans Administration Assistance Program
- ROTC Scholarships
- Student Loan Repayment Program
- Health Profession Loan Repayment Program

For additional information on these programs, contact your local military recruiter or the Veterans Administration office.

### **Scholarships**

Scholarships are often awarded on the basis of:

- Academics
- Athletic skills
- Artistic abilities
- Ethnic background
- Religious affiliation
- Special interests

For more information, check with:

- Your high school counselor and postsecondary school financial aid officer
- Community organizations
- Private businesses and professional organizations

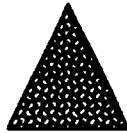
# The Texas Guaranteed Student Loan Programs

In 1979, the Texas Legislature created the Texas Guaranteed Student Loan Corporation as a public, nonprofit corporation to administer the federal Guaranteed Student Loan Program for the state of Texas. TGSLC's main role is to provide financial access for students to pursue their educational goals by encouraging lender participation in the:

- **Stafford Loan Program**
- **Supplemental Loans for Students Program (SLS)**
- **Parent Loans for Undergraduate Students Program (PLUS)**
- **Consolidation Loan Program**

## Stafford Loans

Stafford Loans offer low-interest, subsidized loans for education to eligible undergraduate, graduate, and professional students.



The Stafford Loan interest rate is 8% during the first four years of repayment and 10% thereafter. Repayment does not begin until six months after you complete school or drop below half-time enrollment. The federal government pays the interest while you are in school and in grace. Your lender must give you at least five years but not more than ten years to repay your loan. The minimum monthly payment required is \$50.

Two fees are deducted from the loan before you receive the proceeds - a guarantee fee and an origination fee. Both rates are set by Congress.

The guarantee fee may not exceed 3% of the principal. This amount is paid to the guarantee agency to insure the loan to the lender. The guarantee is one of the features which makes lenders willing to provide money for

student loans. Without it, student loans would be difficult to obtain.

The origination fee is 5% of the principal. This fee is paid to the federal government to partially offset their interest costs while you are in school. Lenders may pay this fee or pass it on to borrowers.

Financial eligibility for Stafford Loans is determined by your school on the basis of "need". This considers your family's financial condition, the estimated costs of education, and eligibility for other financial aid. It must include your eligibility for a Pell Grant because you are required to apply for a Pell Grant before you apply for a Stafford Loan.

To be eligible for a Stafford Loan, you must be a U.S. citizen or eligible noncitizen and be enrolled, or accepted for enrollment, at least half time at an eligible school. You must be in a degree or certificate program or a single course of up to twelve months necessary to enter a degree or certificate program. You cannot have any outstanding defaults or refunds owed under federal education programs. You must also be registered with the U.S. Selective Service System, unless you are not required to register, and must certify your intent to use the loan proceeds for educational purposes. Students who have attended school previously must be making satisfactory academic progress.

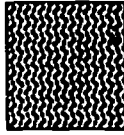
The maximum loan amounts are:

Freshmen, sophomores	\$2,625	annually
Juniors, seniors	\$4,000	annually
<b>Total undergraduate</b>	<b>\$17,250</b>	
Graduate/professional	\$7,500	annually
<b>Total undergraduate and graduate</b>	<b>\$54,750</b>	



## Supplemental Loans for Students (SLS)

SLS loans are for graduate or professional students and independent undergraduates. In certain exceptional cases, dependent undergraduates may also qualify. SLS loans may be in addition to Stafford or PLUS borrowings or are for those who are not eligible for Stafford Loans. Applicants must have their eligibility for Stafford Loans determined and apply for a Stafford Loan before they apply for SLS.



SLS loans have a variable interest rate, which is adjusted annually and may not exceed 12%. Like Stafford Loans, a guarantee fee is charged. This may not exceed 3% of principal. There is no origination fee since the federal government does not pay any interest on SLS loans.

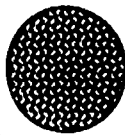
SLS borrowers begin repayment of their loan within 60 days of disbursement unless they qualify for deferment. Interest must be paid or periodically be added to principal if the loan repayment is deferred.

SLS borrowers must meet all the eligibility requirements of Stafford borrowers, except their "need" determination does not include an assessment of family financial condition. It is based on estimated costs of education minus other financial aid.

SLS borrowers may receive up to \$4,000 annually, \$20,000 total. Lenders must allow at least five years but not more than ten years for repayment and schedule monthly payments of at least \$50.

## Parent Loans (PLUS)

PLUS Loans are for parents or legal guardians of dependent undergraduate, graduate, or professional students. They may be in addition to Stafford and/or SLS loans or are for families who are not eligible for Stafford Loans.

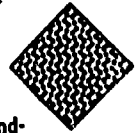


The interest rate, terms, and financial eligibility requirements for PLUS Loans are the same as for SLS Loans. In addition, the parent borrower must be a U.S. national or eligible noncitizen, have no defaults or refunds owed on prior federal education programs, and state his or her intent to use the loan proceeds for the educational costs of the student.

PLUS borrowers may receive up to \$4,000 annually, \$20,000 total for each dependent student. Lenders must allow at least five years but not more than ten years for repayment and schedule monthly payments of at least \$50.

## Consolidation Loans

Consolidation Loans are available after students complete their educational programs. They can assist borrowers in managing their student loan repayment by combining loans from several federal programs or lenders into one loan, extending repayment periods, lowering monthly payments, and centralizing transactions and payments.



However, these privileges do come at some additional cost to the borrower. If the borrower's original lender discounted his or her interest rate, consolidation could result in a higher overall interest rate on his/her loans. Likewise, having an extended repayment period does result in more interest being charged over the life of the loan. And, lastly, some deferment privileges are not available for Consolidation Loans.

Loans which may be consolidated are: Stafford Loans, Federally Insured Student Loans (FISL's), Supplemental Loans (SLS's), Perkins Loans (formerly NDSL's), and Health Profession Student Loans (HPSL's).

## You can get more information about student financial assistance from . . .

**Texas Guaranteed Student Loan Corporation**  
P. O. Box 15996  
Austin, Texas 78761-5996  
1-800-252-9743  
8:00 am - 5:00 pm, C.S.T.  
Monday through Friday

### Services

#### Information on

- eligibility for student loans
  - the student loan process
  - debt management and repayment options
  - other financial aid
- 
- names of participating schools and lenders
  - problem resolution
  - Program rules and regulations

**Other sources include:**  
**Federal Student Aid Information Center**  
P. O. Box 54  
Washington, D.C. 20044  
1-800-333-INFO  
9:00 am - 5:30 pm E.S.T.  
Monday through Friday

**Texas Higher Education Coordinating Board**  
Division of Student Services  
P. O. Box 12788, Capitol Station  
Austin, Texas 78711  
(512) 462-6325

**Student Aid Library**  
**Minnie Stevens Piper Foundation**  
GPM South Tower, Suite 350  
800 NW Loop 410  
San Antonio, Texas 78216-5000  
(512) 525-8494

### And don't forget about...

Your school's financial aid officer, the primary source of financial aid information. You can also contact the dean of the college in which you plan to enroll to find out if there are scholarships available in your chosen field of study.

Additionally, there are commercial companies which offer computer-assisted scholarship and financial aid research for a fee. This can be expensive and may not provide you with any more information than that available through the sources listed here.

## We'd like to hear from you . . .

### Request for Stafford, SLS, and PLUS Application Form

Please send me application forms for the following loan program(s).

Place a check by the type of form you would like to receive.

☐ **Stafford**    ☐ **SLS**    ☐ **PLUS**

Name \_\_\_\_\_

Mailing Address \_\_\_\_\_

City, State, Zip \_\_\_\_\_

**Texas Guaranteed Student Loan Corporation**  
P.O. Box 15996 • Austin, TX 78761-5996 • 512-435-1900 • 800-252-9743

## PRE-ENROLLMENT CATALOG

The Pre-Enrollment Catalog shall include, but shall not be limited to the following:

- 1. Identifying data, such as volume number and date of publication;
- 2. Name and address of the school, and its governing body and officials;
- 3. A calendar of the school showing the legal holidays, beginning and ending dates for each course quarter, term or semester, and other important dates;
- 4. Complaint and grievance procedures;
- 5. Cost comparison information availability;
6. ✓ Loan Counseling Entrance Interview and verifying document;
7. Starting and average salaries for each field of study;
8. Placement and employment information;
9. State licensing requirements and graduate scores for license courses;
10. Disclosure of specified consumer information available;
11. Signed document of receipt of Pre-Enrollment Catalog and counseling;
12. Document of receipt of "Your Future" in specified time;
13. Photocopy of school's current License to Operate;
14. School policy and regulations on enrollment, including dates and specific entrance requirements for each course;
15. Information on entrance testing and remedial development plans;
16. "Disclaimer" with concurrent limitations on loan eligibility;
17. Special requirements regarding Ability-to-Benefit students;
18. Copy of the Enrollment Contract or Agreement as specified;
19. School policy and regulations about leave, absences, class cuts, make-up work, tardiness, and interruptions for unsatisfactory attendance;

APPENDIX D

21. School policy and regulations about standards of progress for the student including the grading system of the school, the minimum grades considered satisfactory, conditions for interruption for unsatisfactory grades or progress, a description of any probationary period allowed by the school, and conditions of re-entrance for those dismissed for unsatisfactory progress;
22. School policy and regulations about conduct and conditions for dismissal for unsatisfactory conduct;
23. Detailed schedule of fees, charges for tuition, books, supplies, tools, student activities, laboratory fees, service charges, rentals, deposits, and all other charges;
24. Policies and regulations about refunding, tuition, fees, and other charges, if the student does not enter the course, withdraws, or is discontinued;
25. A description of the available facilities and equipment;
26. Names of local employers who have hired graduates, and/or market and job availability surveys;
27. Names and Companies on the Advisory Council for the school;
28. Clear distinctions regarding employment rates and placement percentages/rates, whichever is applicable;
29. Availability of placement assistance;
30. A course outline for each course offered showing course objectives, subjects or units in the course, type of work or skill to be learned, and approximate time to be spent on each subject or unit;
31. Policy and regulations about granting credit for previous education, hours, or credits and training;
32. Information on the transferability of credits earned, and on school's articulation policies;
33. Any information the Commissioner, Director, and ICOPS may prescribe.

**"STUDENT COMPLAINTS" REPORTING FORM**Name of Regulatory Agency: Compiled data from fourteen agencies surveyedAddress: Various school locations City: \_\_\_\_\_ State: Texas Zip: \_\_\_\_\_Contact Person: Judy Sexton Phone: (512) 463-0782Date of This Report: October, 1990 Period Covered: Sept. '89 thru Aug. '90Number of Schools Regulated: 1585 Types of Schools: proprietaryNumber of Schools Involved in Complaints: 271 Percent of Total: 17%Total Number of Allegations: 1459 \* Number of Students Making Complaints: 762Resolved for Student: 184 Resolved for School: 266 Pending Resolution: 112

Please list, in descending order of frequency, the allegations received during the reporting period specified:

Nature of Allegations: (please, be specific)	Number
Quality of curriculum and/or instructors	466
Misrepresentations in advertising & recruitment, re: job availability, placement assistance & earnings	338
Payment of refunds due student and/or lender	188
Inadequate equipment, textbooks, supplies & facilities	158
Unfair testing, grading practices & awarding of credit	149
Inproper and inadequate record keeping	140
School operating without license or approval	139
Financial aid and student loan misunderstandings	121
Other = 86	<b>TOTAL *</b> 1573

Comments: \_\_\_\_\_

To affirm that this report is a true and accurate account of the student complaints against the schools regulated by the above named agency, and for the reporting period specified, I hereto affix my signature:

Judy Sexton Title: ICOPS Report Writer Date: 11/28/90  
 (Person Making this Report) Judy Sexton
MAIL TO: Joint Interim Committee on Proprietary Schools (a/c 512 6443-0782)  
Room 211, Reagan Building, P.O. Box 2910, Austin, Texas 78768-2910APPENDIX E

**TEXAS EDUCATION AGENCY  
RESPONSES TO ISSUES AND CONCERNS RELATIVE TO  
PROPRIETARY SCHOOLS IN THE STATE OF TEXAS**

October 12, 1990

An opening comment: In view of the charge of the committee to study the overall regulation of the proprietary schools, the committee may wish to ask these same questions of the other agencies that regulate proprietary schools.

1. Question: What is an acceptable and customary curriculum (content & length) for a course of study? It appears that the proprietary schools are gearing their curriculum length to meet the requirements of obtaining grants or loans for their students. It may be that certain curricula are inflated just so that the students may qualify for government grants or loans.

Response: There is not a set acceptable and customary content and length for a course of study. The content and length would vary depending on the purpose for which the program is being offered, the stated entrance requirements, and the educational and experience level of the student being enrolled.

Agency staff believe that in certain instances curricula are inflated to maximize the government grant or loan. Attached is a July 1989 letter from the Commissioner of Education to the Committee on School Finance, State Board of Education concerning "course stretching". A proposed rule will be considered at the October 20 State Board of Education meeting which will authorize the commissioner to set minimum and maximum program lengths. It also will require the following to be ascertained prior to approval of a program:

(1) The program must prepare the student for a job in a recognized occupation; (2) there must be a need for the education or training; (3) there must be an employer demand for the occupation; and (4) the content and length must be necessary to reach the stated objective.

2. Question: Some of the proprietary schools appear to be very active with local business and industry advisory boards. Other schools don't seem to pay much attention to the needs in the local business/industrial environment. It appears that local business and industry (where they are used) are quite influential in adding value and meaning to a course of study offered by a proprietary school. Does it make sense to require proprietary schools to be actively and meaningfully involved with local business and industry advisory boards? Such an advisory board would not be just a "figure head". It would truly need to be involved in helping the proprietary school determine what is the most meaningful training and education for a given marketplace.

Response: Yes, it makes sense to require the use of advisory boards. With the exception of the degree programs, proprietary schools are not presently required to have advisory boards; however, some of the schools have advisory boards in place.

APPENDIX F

3. Question: Can the loan default rate cutoffs be tightened such that there are attractive incentives for low default rates and unattractive disincentives for high default rates. Also, there appears to be some confusion as to how default rates should be measured. Just what is the most meaningful way to calculate default rates? Do all state agencies use the same calculation?

Response: Regulatory activities concerning the student loan default rates are under the purview of the Texas Guaranteed Student Loan Corporation and are beyond the scope of this agency. That agency had previously provided us with a definition of the default rate which is attached for the committee's convenience. It is identified as Attachment I. Since this question would best be answered by that corporation, this document has been sent to Joe McCormick, as the Executive Director of the corporation for his consideration in responding to the committee.

The committee may wish to know that Senate Bill 417, the sunset legislation for the Texas Education Agency, requires the development of a strategy to reduce default rates in proprietary schools. The agency has entered into a memorandum of understanding with the Texas Guaranteed Student Loan Corporation and other state agencies that regulate proprietary schools to develop that strategy. Presently, the agencies are selecting representatives to serve on the task force to implement the memorandum.

4. Question: Are the proprietary schools required to maintain an active and effective placement process? If a large portion of their income is in the form of government grants and loans, it appears possible to require that they have certain placement results. Basically, if there were a positive correlation between the portion of their income that is in the form of government grants and loans and the placement rates of their graduates, then this would be an indicator of how valuable the proprietary training or education would be in the community.

Response: The proprietary schools are not required by statute or State Board of Education rule to maintain a placement process.

Texas statute makes a distinction between employment and placement. Employment means the student has a job in the field in which he was trained. Placement involves the school making an affirmative effort to assist the graduate in obtaining a job in the field in which the student was trained. With this understanding, schools are not required to provide placement service for students. As a matter of fact, if a program's employment rate is 100% and it's placement rate is zero, that program would be considered to be successful if the school did not claim to have a placement service.

As for the employment rate, Senate Bill 417 gave this agency the authority to collect data from the proprietary schools that will provide the total enrollment, retention rate, completion rate, placement rate, and employment rate. The State Board of Education rules require schools to state a desired retention and employment rate before program approval. It is contemplated that the data collected will be used to assist schools in providing a better quality education and students in making choices to enroll in a particular school.

The Texas Guaranteed Student Loan Corporation may wish to respond to the inquiry about placement results being tied to the loan and grant program.

5. Question: How can articulation be encouraged? It appears that most of the proprietary schools are not concerned with articulation. Are there certain incentives that can be applied when a proprietary school works out articulation agreements with degree-granting institutions? It seems that proprietary training/education that can be articulated with 2 or 4-year colleges and universities would probably be of a higher quality than that which cannot be articulated. Perhaps disincentives are not in order, but incentives for degrees of articulation could be beneficial.

Response: Articulation can be encouraged by the agency in continuing to work with proprietary schools to improve program quality in those programs which are not terminal in objective. With good quality programs, the proprietary school would have the best opportunity for articulation. It may be important to note that the acceptance of training received at a certain institution is totally the prerogative of the receiving institution. This agency would be willing to work with the Texas Higher Education Coordinating Board to explore other ways to encourage articulation.

Further, most proprietary schools are not concerned about executing articulation agreements because the majority of the programs offered by proprietary schools are terminal. The students enroll to train for a specific job, not to continue their education in an academic post-secondary institution.

6. Question: Regarding default rates, it appears that a common standard would be needed for proprietary schools as well as public institutions. It is not clear to me that default rates are dealt with on a fair and equitable basis when comparing the proprietary and public schools. Incentives and disincentives should be equally applied. Are they?

Response: The area of default rates falls under the purview of the Texas Guaranteed Student Loan Corporation and is beyond the scope of this agency. Since this question may best be answered by that corporation, a copy of this document is being forwarded to Joe McCormick, Executive Director for his consideration in responding to the committee's question.

7. Question: There should be closer regulation and control of branch operations of proprietary schools, even when these branches are delivering the same kind of education and training as the "mother school". There should be even greater requirements placed on branches who specialize in a different area of education or training compared to the original qualifying entity. Are those controls in place?

Response: The controls are in place at the Texas Education Agency. The agency treats branch operations the same as "mother school" operations. Each is required to hold a certificate of approval and meet all of the legal requirements. Accrediting bodies do recognize branch operations and have a different set of regulations for those.

8. Question: What can be done about different proprietary schools being regulated by different state agencies who have different criteria by which



they judge these schools? Is it possible to have independent agencies who have similar criteria which are being regulated by a higher agency?

Response: Two alternatives have been mentioned. (1) Change the law pertaining to each agency such that all the laws and rules regulating the proprietary schools are essentially the same. (2) Transfer the regulation of all proprietary schools to one agency. The possibility of a higher agency or board regulating the independent regulatory agencies could be another alternative but this approach does not appear to be as viable as the other two mentioned here.

9. Question: Is TEA adequately staffed to enforce and regulate? Are they being effective in their enforcement and regulation? How is this measured? Are they having a positive impact on reducing loan default rates or consumer abuses or illegal acts?

Response: Yes, the Texas Education Agency has committed sufficient staff positions to enforce and regulate the proprietary school sector over the long-term. Funding to fill these positions is not adequate. As the agency is prohibited from using general revenue funds to support this program and revenue generated from fees paid by proprietary schools is inadequate to fill these positions, additional revenue is needed.

On the short-term, the current staffing level may not be adequate. In the long term, the current staffing level should be adequate. The sequence of events from the summer of 1989 to the present has caused a back-log in the processing of applications and compliance reviews. The legislature doubled the workload of the staff by transferring the regulation of the commercial driving schools to the agency effective September 1, 1989. Approximately 260 schools and over 3000 instructors were added in three new driving programs under a different statute. Further, the legislature significantly changed the Texas Proprietary School Act and the State Board of Education significantly changed the rules pertaining to proprietary schools. New staff had to be hired and trained. Additionally, the staff began to work toward better quality programs and schools and therefore, did not merely process paperwork. This slowed down the processing time. It is important that an approval extended by the agency be meaningful.

The agency is having a positive impact on consumer abuses and illegal acts. Since September 1, 1989, additional staff has been and is still being employed and trained. A special investigation team has been formed to handle student complaints, conduct close-out visits to closed schools, and arrange for the students of closed schools to be transferred to another school. A full time attorney has been hired to work with the staff on better enforcement and administrative hearings and to work with local district attorneys, the attorney general's office and the courts to bring about compliance with the legal requirements. Further, the agency has formed an informal cooperative alliance with the guaranteed student loan corporation, the accrediting bodies, other state licensing agencies, and the U. S. Department of Education to improve the overall regulation of this sector.

10. Question: What can be done to tighten entrance requirements? If entrance requirements are tightened, does this defeat the philosophy of access to education and training for everyone? Are we dealing with a situation which

dictates that anyone can get a guaranteed student loan regardless of whether or not he or she is capable of passing the curriculum? If the spirit of the guaranteed student loan program is "training/education for all", then perhaps entrance requirements are not appropriate. However, if proprietary schools can make a profit on a student who it can "shore up" for a while, knowing full well that the student will probably not make it, is this being counter-productive? Not only do you end up with an uneducated/untrained individual, but you end up with an individual who has a significant debt and perhaps some difficulty taking advantage of future opportunities because of a defaulted loan.

Response: The entrance requirements are now tight. Previously the requirements were not stringent enough. Effective December 11, 1989, the State Board of Education adopted new rules on entrance requirements. These rules have not had an opportunity to withstand the test of time, but appear satisfactory. Enclosed is a copy of those rules identified as Attachment II.

A student should not become indebted for a program in which there is not a reasonable chance for success. The student must have the basic abilities necessary to learn the vocational skills of the job objective for which the student is being trained. If an individual cannot read, that individual should not be allowed to enroll in a program that requires a high level of reading and analysis and become indebted in the student loan program. If the mathematical ability of the individual is on a fourth grade level, that individual should not be enrolled in an accounting program. There are adult basic education programs available throughout the state at minimal or no cost that will help prospective students reach the basic entrance level necessary to be successful.

Since the student loan program is beyond the scope of the Texas Education Agency, the Texas Guaranteed Student Loan Corporation may also want to consider responding to this question as well.

11. Question: Can proprietary schools be restricted or prohibited from employing commissioned sales people to sell to prospective students? If they can be prohibited from using commissioned sales people, this would have to be the case in the public schools also.

Response: Yes, if enacted in the statute, the proprietary and public schools could be prohibited from utilizing commissioned sales people. Statute currently requires that sales people be registered and approved by the Texas Education Agency. Procedures for approval are: (1) the representative be of good reputation and character; (2) an examination is made of a notarized application signed by the school official containing information about any convictions and employment/licensing history; (3) in some cases, a criminal history is obtained; and (4) payment of a \$90 fee.

Statute also provides for a full refund of all monies paid by a student if the enrollment was procured as a result of misrepresentation. State Board of Education rules also contain prohibited acts. A copy of those rules are enclosed identified as Attachment III.

12. Question: Should duplication of course offerings or program offerings in a given marketing area be a significant concern? The open market philosophy would probably take care of this. The "better schools" in a saturated market should be the survivors whereas the schools with low quality and unable to meet proprietary school regulations would not survive in such a market.

Response: Duplication of course or program offerings may be a concern but is not considered to be significant enough to be regulated by the state. The proprietary schools are privately owned and thus for the open market philosophy has been recognized by public policy. Competition should improve the market. An important aspect of the proprietary school sector of post-secondary education is its ability to react quickly to changes in market demand for new occupations and changes in existing occupations. A restriction on course offerings could prevent a new program offering that would be superior to those already approved.

13. Question: Can more stringent requirements be placed on the faculty of proprietary schools? It may not be necessary for the faculty in many proprietary schools to have college degrees. However, instructors and teachers should undergo selection criteria to determine their suitability to teach. This might include experience levels in the given content areas, qualifications as an instructor, and personal background requirements that would screen out undesirable influences.

Response: Stringent requirements are already placed on the faculty of proprietary schools. The agency agrees that one of the critical points in improving program quality is the approval of instructors. Enclosed is a copy of the State Board of Education rules pertaining to the criteria necessary for approval of instructors. It is identified as Attachment IV. Also enclosed is a copy of the proposed rules concerning instructors. It is identified as Attachment V. Staff believes these rules will assist in our endeavor to improve program quality. We would be pleased to hear the committee's recommendations in this regard.

14. Question: Does the State help proprietary schools be effective? Or, do state agencies just regulate and control? Perhaps money spent on service centers in support of proprietary schools would be money well spent.

Response: The agency helps proprietary schools be effective by regulation. Many of the regulations are designed to improve the quality of the program offerings at the schools. While there is not a position funded specifically to provide this type of assistance, the agency offers technical assistance during the compliance work with school officials. There is also an agency sponsored workshop to assist school administrators in complying with the legal requirements.

The Educational Regional Service Centers could not be utilized. This responsibility would be too large to add to their current responsibilities. They are not funded for such purposes. The focus of the service centers must be on public elementary and secondary schools.

15. Question: Does the accreditation process really work? Are the standards appropriate and is adherence monitored effectively?

**Response:** The agency would not presume to state whether the accreditation process works. There is a congressional subcommittee chaired by Senator Sam Nunn studying this and other issues pertaining to fraud and mismanagement in the guaranteed student loan programs. Enclosed is a recent article in the Education Daily concerning special reviews of the accrediting bodies that the U. S. Department of Education will conduct. It is identified as Attachment VI. Please note the statement of purpose mentioned by an accrediting body official in the article.

It is a fact, however, that the majority of the student complaints are about accredited schools. The majority of the schools that close with a large refund liability are accredited schools. Only accredited schools are eligible for participation in the federal loan and grant program. These facts raise serious questions about the accreditation function.

**16. Question:** Suspension of loan or grant programs for certain abuses or lack of school performance would be a significant disincentive. Is it possible to have a suspension process? Would this ultimately hurt the consumer worse than it hurts the proprietary school?

**Response:** It is possible to have a suspension process and one is in place. The suspension process protects the consumer and is very effective when the violations are so severe that new students need to be protected from abuse.

Effective September 1, 1989, the Texas Education Agency has the authority to suspend enrollments of any students. The Texas Guaranteed Student Loan Corporation has the authority through federal regulations to suspend a school's eligibility for participation in the loan and grant program.

**17. Question:** Are not schools now required to furnish completion and employment rates to TEA? If not, why not?

**Response:** Schools are required to furnish completion and employment data to the Texas Education Agency. Senate Bill 417 gave the agency the authority to collect placement and employment rates. For additional information, please see the response to question 4.

**18. Question:** How can proprietary schools be self-policing? Perhaps they could have their own monitoring agencies which they support with dues. However, who regulates these monitoring agencies? Or, do they need to be regulated?

**Response:** Proprietary schools cannot be self-policing and need to be regulated. The Texas Proprietary School Act is a consumer protection act. The source of income for these schools is the consumer, the student. It may be difficult for some of the school owners to discontinue a practice that resulted in additional income. Also, if the proprietary schools can be self-policing, why is there not evidence of that practice now? Why was it necessary to have a regulatory law enacted?

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## CHAPTER 12

## PROPRIETARY SCHOOLS

Subchapter	Section
A. Purpose and Authority . . . . .	12.21
B. Basic Standards . . . . .	12.31
C. Operational Provisions . . . . .	12.61

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**10/10/90**

TEXAS HIGHER EDUCATION COORDINATING BOARD  
 TASK FORCE ON ASSOCIATE DEGREES  
 FOR PROPRIETARY SCHOOLS

**APPENDIX G**

## Subchapter A: Purpose and Authority

## Section

- 12.21. Purpose.  
 12.22. Authority.  
 12.23. Degree Titles Authorized.  
 12.24. Definitions.


12.21. Purpose.

It is the intent of the Legislature to encourage proprietary postsecondary institutions and to ensure the integrity of applied associate degrees.

(a) Proprietary schools, as defined in §32.11 of the Texas Education Code, offering programs in which applied associate degrees are awarded, shall meet minimum educational program standards.

(b) Applied associate degrees offered by proprietary schools shall meet minimum educational program standards that are consistent with applied associate degrees conferred by public colleges.

12.22. Authority.

(a) Chapter 61 of the Texas Education Code provides the authority to the Texas Higher Education Coordinating Board to enforce minimum standards for the approval of programs of study leading to the award of the applied associate degree.

(1) The Texas Higher Education Coordinating Board shall administer the provisions of the Texas Education Code. To achieve the purposes of the Texas Education Code, the Commissioner may request from any department, division, board, bureau, commission, or other agency of the state, and the same shall provide such information as will enable the Board to exercise properly its powers and perform its duties hereunder.

(2) The Texas Higher Education Coordinating Board shall have the authority to administer the rules by appropriate action consistent with Texas law and the Board's own policies and procedures.

(3) The Texas Higher Education Coordinating Board shall have jurisdiction over applied associate degree programs in proprietary schools.

(b) Chapter 32 of the Texas Education Code and rules promulgated by the State Board of Education provide the authority to the Texas Education Agency to enforce minimum standards for approval of proprietary schools.

**12.23. Degree Titles Authorized.**

(a) Associate of Applied Science (A.A.S.), Associate of Applied Arts (A.A.A.), and Associate of Occupational Studies (A.O.S.) degrees.

(1) A.A.S., A.A.A., and A.O.S. degrees will be the only degrees authorized by the Texas Higher Education Coordinating Board.

(2) Institutions may enroll students in A.A.S., A.A.A., and A.O.S. degrees under Texas Education Agency minimum standards until June 16, 1993, unless the approval is revoked by the Texas Education Agency. All students enrolled in such degree programs under Texas Education Agency minimum standards must complete all degree program requirements prior to December 15, 1995.

(3) Institutions which were approved to award the A.A.S., A.A.A., and/or the A.O.S. degrees by Texas Education Agency prior to September 1, 1989, may continue to enroll students in these degree programs only if such programs have met the minimum requirements of the Coordinating Board by June 16, 1993.

(4) Effective September 1, 1989, new A.A.S., A.A.A., and A.O.S. degree programs must meet the requirements of the Coordinating Board.

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## Chapter 12

12.24. Definitions.

The following words and terms shall have the following meanings, unless the context clearly indicates otherwise.

Applied Associate Degree -- Refers specifically to the A.A.A., A.A.S., and the A.O.S. degrees in this chapter.

Articulation -- is a planned process linking educational institutions and experiences to assist students in making a smooth transition from one level of technical and vocational education to another without experiencing delays or duplication of learning.

Board and Coordinating Board -- refer to the Texas Higher Education Coordinating Board.

Commissioner -- is the Commissioner of Higher Education.

Contract Instruction -- is specifically targeted instruction designed by a proprietary school and a contracting entity.

Degree -- is any title or designation, mark, abbreviation, appellation, or series of letters or words, including associate, bachelor's, master's, doctor's and their equivalents, which signify, purport to signify, or are generally taken to signify satisfactory completion of the requirements of all or part of a program of study which is generally regarded and accepted as an academic/occupational degree-level program among Texas postsecondary institutions.

Library/Learning Resources -- are instructional materials (e.g. books, audio-visual equipment, and computers) that support the educational/vocational development of the student.

Multiple Site Program Offering -- means any extension location where course(s) which are alleged to entitle a student to an applied associate degree are offered.

Program Approval -- is the process whereby an institution requests authorization to implement a technical or vocational program leading to the applied associate degree.

Program of Study -- is any course or grouping of courses which entitle a student to an applied associate degree or to credits which are applicable to an applied associate degree.

Proprietary School -- is any business enterprise operated for a profit, or on a nonprofit basis, which maintains a place of business in the State of Texas or solicits business within the State of Texas, and;

- (a) which offers or maintains a course or courses of instruction or study; or
- (b) at which place of business such a course of study is available through classroom instruction or by correspondence or both to a person or persons for the purpose of training or preparing the person for a field of



endeavor in a business, trade, technical, or industrial occupation, or for avocational or personal improvement except as excluded by Section 32.12 of the Texas Education Code.

Remediation -- is an activity designed to teach basic competency in such areas as reading, writing, oral communications, and arithmetic.

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## Subchapter B. Basic Standards

## Section

- 12.31. Minimum Standards.
- 12.32. Demonstration of Program Need.
- 12.33. Administrator Qualifications.
- 12.34. Faculty Qualifications.
- 12.35. Full-Time Faculty.
- 12.36. Curriculum Requirements.
- 12.37. General Education Requirements.
- 12.38. Length of Programs.
- 12.39. Facilities and Equipment.
- 12.40. Library/Learning Resources.
- 12.41. Student Services.

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12.31. Minimum Standards.

The program standards for applied associate degrees approved by the Coordinating Board reflect the criteria contained in Section IV. ("Educational Program") and Section V. ("Educational Support Services") of the *Criteria for Accreditation of the Commission on Colleges*, Southern Association of Colleges and Schools.

12.32. Demonstration of Program Need.

(a) It is the responsibility of the institution to identify its local, regional, statewide, and/or national target market(s) for employment of graduates of applied associate degree programs. The institution must provide written evidence of a research and planning process and demonstrate the need for a program.

(b) Approval of applied associate degree programs shall not be denied on the basis of similar programs being offered by other institutions in the same or nearby communities.

12.33. Administrator Qualifications.

The specification of qualifications for administrators of technical and vocational education is the responsibility of the institution in keeping with its defined mission and administrative organization. Administrators of technical and vocational education should possess credentials, experience, and demonstrated competence appropriate to their areas of responsibility.

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**DRAFT**12.34. Faculty Qualifications.

(a) General Education Faculty -- All full-time and part-time faculty members teaching general education courses must have completed 18 graduate semester hours in their teaching field and hold a master's degree. Exceptions to academic preparation must be justified by the postsecondary institution on an individual basis. It is the institution's responsibility to keep supporting documentation on file.

(b) Technical/Specialty Faculty -- All full-time and part-time faculty in technical/specialty courses should have both academic and work experience. The minimum academic preparation for faculty teaching in professional and technical fields must be at the degree level at which the faculty member is teaching. Faculty who teach technical specialty courses must have three years of direct or related work experience exclusive of teaching. Exceptions to academic preparation or work experience must be justified by the postsecondary institution on an individual basis. It is the institution's responsibility to keep supporting documentation on file.

(c) It shall be the responsibility of the institution to maintain an in-service program to encourage professional growth and development.

(d) All institutions shall demonstrate promotion of teaching excellence by developing a plan for faculty professional development. The plan must address full and part-time teacher preparation and professional development.

12.35. Full-Time Faculty.

In each curricular area in which the institution offers an applied associate degree, there must be at least one full-time faculty member.

12.36. Curriculum Requirements.

(a) All applied associate degree programs must be designed to meet specific occupational competencies.

(b) All applied associate degree curricula must contain the following basic elements:

- (1) a defined number of hours required for graduation, measured by both credit hours and contact hours;
- (2) a defined core of general education courses; and
- (3) a defined core of courses in the technical/vocational major.

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(c) Additionally, applied associate degree curricula may contain related studies courses, appropriate electives, and any remedial courses required (remedial courses may not be counted toward meeting graduation requirements for the applied associate degree).

(d) All applied associate degree curricula shall be structured to reflect a logical progression of knowledge and skills, with course pre-requisites established as appropriate.

(e) In curricular areas in which licensure or certification by an external agency for entry to the profession is required, the applied associate degree curriculum must be designed to enable students to meet the minimum requirements for licensure or certification.

(f) Applied associate degree programs must have a Program Advisory Committee which is responsible for advising the institution on program requirements, course content, equipment, employment trends, and other relevant areas which will help ensure program quality.

(1) Advisory committees should be composed of members from the public and/or private sectors who broadly represent the occupational field and skills used in the occupations for which training is being provided.

(2) Committee membership should represent the population in the service area with regard to race, color, national origin, gender and handicap.

(3) Full-time and part-time employees of the institution may serve as ex-officio members only.

(4) New program applications must include minutes of all advisory committee meetings conducted for the planning of new programs and a roster containing names and addresses of the advisory committee members.

### 12.37. General Education Requirements.

(a) An applied associate degree program consists of a core curriculum containing a minimum of 15 semester or 23 quarter-credit hours.

(b) ~~Within the core, or in addition to it, there must be courses. One component of the core must be comprised of courses designed to develop skills in oral and written communication and computation.~~

(c) Basic computer instruction should be provided since the computer is an important means of both communication and computation.

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(d) - General education core courses must not be narrowly focused on those skills, techniques, and procedures which are peculiar to a particular occupation or profession and should be drawn from each of the following areas as specified by the Southern Association of Colleges and Schools:

- (1) Humanities or Fine Arts;
- (2) Social or Behavioral Sciences; and
- (3) Natural Sciences or Mathematics

12.38. Length of Programs.

An applied associate degree may be awarded to students who successfully complete an occupational curriculum consisting of at least 90 quarter-hours or 60 semester-hours but not less than 1100 clock-hours of instruction.

12.39. Facilities and Equipment.

Equipment, facilities, classrooms, and laboratory space must be adequate and appropriate to serve the anticipated number of students enrolled in the program.

12.40. Library/Learning Resources.

The library or learning resource center shall provide sufficient resources to ensure effectiveness in the instructional programs consistent with the institutional purpose. Provisions must be made to provide for continual improvement to meet educational needs and trends.

12.41. Student Services.

(a) Admissions and Testing/Assessment Requirements -- Basic skills as well as specific or additional admissions requirements and/or testing/assessment requirements which apply to entry to specific new applied associate degree programs must be clearly stated, published, and made available to all prospective students.

(b) Graduation Requirements -- Specific graduation requirements for applied associate degree programs must be published and made available to all prospective students.

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(c) **Counseling Requirements --** Students enrolled in applied associate degree programs must receive appropriate counseling, advisement, and career development services. These services must reflect an organized counseling program with an adequate organizational structure and adequate resources.

(d) **Student Attendance Requirements --** Student attendance requirements in applied associate degree programs must be consistent with the program goals.

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## PROPRIETARY SCHOOLS

## Subchapter C: Operational Provisions

- 12.61. Multiple Site Program Approval.
- 12.62. Program Revision, Deactivation, and Closure.
- 12.63. Contract Instruction.
- 12.64. Program Evaluation.
- 12.65. Evaluation of Program Effectiveness.
- 12.66. Appeals Procedure.

12.61. Multiple Site Program Approval.

An institution offering an applied associate degree at multiple sites must receive separate approval for each site.

12.62. Program Revision, Deactivation, and Closure.

(a) Each Proprietary School requesting a program revision must submit an completed Application for Program Revision and comply with the Texas Higher Education Coordinating Board's *Technical and Vocational Program Guidelines*.

(b) A Proprietary School may deactivate a program by suspending new student enrollment and submitting a Notification of Deactivation Form to the Coordinating Board.

(c) A Proprietary School may close a program voluntarily in accordance with evaluation procedures provided in the guidelines.

12.63. Contract Instruction.

Proprietary Schools may contract for specific instruction. This arrangement must have education as its primary purpose.

(a) Courses offered under contractual agreements must be consistent with the educational purpose, mission, and goals of the program and institution.

(b) Courses offered under a contractual arrangement must remain the responsibility of the sponsoring proprietary school.

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## PROPRIETARY SCHOOLS

12.64. Program Evaluation.

(a) The institution must establish adequate procedures for planning and evaluation, define its expected educational results, and describe how the achievement of those results will be ascertained.

(b) The evaluation criteria should include the following: mission, labor market need, curriculum, enrollment, graduates, student placement, follow-up results, ability to finance program, facilities and equipment, instructional practices, student services, public and private linkages, and qualifications of personnel.

12.65. Evaluation of Program Effectiveness.

(a) Every program in which an applied associate degree is conferred will be evaluated periodically according to procedures established by the Coordinating Board.

(b) The following evaluation elements will be assessed in terms of both quantitative and qualitative factors: mission, labor market need, curriculum, enrollment, graduates, student placement, follow-up results, facilities and equipment, instructional practices, student services, public and private linkages, and qualifications of personnel.

(c) The Coordinating Board staff will use the results of the program evaluation to identify any applied associate degree programs that should be considered for closure. A second but more extensive evaluation will be conducted by Coordinating Board staff. The institution may provide additional information related to the program.

(d) The Coordinating Board staff will approve the program for continuation or will place the program under review for closure status based on the results of the second evaluation. The staff will identify specific program deficiencies which must be corrected.

(e) Institutional representatives must develop a plan to correct the program deficiencies for any program placed under review for closure status. Time limits will be determined by the Coordinating Board staff; however, institutions will be allowed no more than two years for the correction of the deficiencies. The Coordinating Board staff will reevaluate the program at the end of the established time period. If the identified deficiencies have not been corrected in the judgment of the Coordinating Board staff, program closure will be initiated. No new students will be enrolled and following the completion of the program by all currently enrolled students the program will be closed.



## Chapter 12

## PROPRIETARY SCHOOLS

**DRAFT**

12.66

12.66. Appeals Procedure.

(a) Contested decisions regarding program approval, revision, and closure should be reviewed with the appropriate Coordinating Board program director.

(b) In instances where agreement is not achieved, the institution may request a review by the Assistant Commissioner. The Assistant Commissioner shall notify the institution of any decision on appeal within 30 working days of the review.

(c) The institution may further appeal to the Commissioner and the Coordinating Board in accordance with the provisions of Chapter 1 (Agency Administration), Section 1.55 of the Rules and Regulations of the Texas Higher Education Coordinating Board.

# **CHART OF OVERSIGHT OF DEGREES**

Educational Providers	Public High School	Proprietary Schools		Public Community/Junior Colleges and Technical Institutes	Public Senior Colleges and Universities
Educational Level of Program	High School Diploma	Certificate non-collegiate degree	Associate Degree	Ass. iate Degree or Certificate	Bachelor's, Master's, or Doctoral Degrees
Accrediting Bodies	SACS Commission on Secondary Schools	SACS (COE) NATTS AICS	Any of these listed plus sections IV & V of the SACS criteria	SACS Commission on Colleges (and six other regional agencies)	
State Oversight	State Board of Education		Texas Higher Education Coordinating Board		
Credential Awarded	High School Diploma	Certificates, Occupational Studies Degree, and Applied Technology degree	Associate degrees (e.g. Associate of Applied Arts, Associate of Applied Science, and Associate of Occupational Studies degrees)		Bachelor's, Master's, and Doctoral Degrees
Characteristics of the degrees	DNA	Complete an occupational curriculum of at least 60 semester hours of instruction in subjects related to business, technical, trades, shops, or industry. No general education component is required for OS and 9 semester hrs required for AT.  <u>Teacher Qualifications:</u> A GED and 5 yrs. in field, an Associate degree and 3 yrs in field, or a Bachelor's degree and 2 yrs. in field. Bachelor's degree required if teaching general education.	Complete a curriculum of at least 60 semester hours of instruction. Must include a core of 15 semester hours of general education. Must ensure competence in reading, writing, oral communication, and fundamental math. Should provide basic competence in use of the computer.		DNA
			<u>TASP not required</u>  <u>Must pass TASP</u>		
			<u>Teacher Qualifications:</u> Academic preparation must be at the associate degree level and 3 yrs. experience in field. Master's Degree and 18 graduate semester hours in field if teaching general education.		

**LEGISLATIVE AUDIT COMMITTEE**

**MEMBERS**

Honorable Gib Lewis, Speaker of the House, Chairman  
Honorable William P. Hobby, Jr., Lieutenant Governor  
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**STATE AUDITOR**

Lawrence F. Alwin, CPA

**DIRECTOR OF PERFORMANCE AUDIT DIVISION**

Wilson S. Campbell

**PROJECT STAFF**

Dennis C. Ludwig, CIA, Project Manager  
Steve McGee, CPA

**APPENDIX I**

**BRIEFING REPORT**

**ON**

**THE REGULATION OF PROPRIETARY SCHOOLS**

**JANUARY 1990**


**OFFICE OF THE STATE AUDITOR**

TWO COMMODORE PLAZA  
200 EAST NINTH ST., SUITE 1000  
AUSTIN, TEXAS 78701

MAILING P.O. BOX 13067  
AUSTIN, TEXAS 78711-3067

PHONE: (512) 475-4700 FAX 475-4664

LAWRENCE P. ALVIN, CPA  
State Auditor  
SHARON W. LOBBETT, CPA  
First Assistant

January 8, 1991

**Members of the Joint Committee on Proprietary Schools**

The State of Texas has a significant financial and social interest in effective regulation of proprietary schools. The proprietary school industry is funded largely from taxpayer dollars and is a part of our post-secondary educational system.

According to the Texas Guaranteed Student Loan Corporation, the Texas Education Agency, and numerous other sources, proprietary school regulation has been very weak in the past. This has resulted in a significant increase in the number of low-quality schools. These low-quality schools are not providing students with a useful education. This, along with a downturn in the economy has caused federally guaranteed student loan default rates to be very high, placing a significant burden on the taxpayer. In the 1989 fiscal year, the federal government paid over \$2 billion nationally for defaulted student loans. Approximately \$100 million was paid for defaults in Texas.

There are many entities involved in the regulation of proprietary schools, including the U.S. Department of Education, the Texas Education Agency, the Texas Guaranteed Student Loan Corporation, several accrediting agencies, the Cosmetology Commission, the Private Investigators Board, and several other state agencies. This fragmented approach makes it difficult to effectively regulate the industry.

Recently, the U.S. Department of Education, the Texas Guaranteed Student Loan Corporation, and the Texas Education Agency took action to significantly strengthen the regulation of proprietary schools. This has resulted in several schools being barred from participation in federally guaranteed student loan programs.

Based on numerous interviews and review of documents, we identified the following issues which we believe the Committee should study. These issues are:

- Regulation is inconsistent and ineffective because there is no single regulatory authority
- Regulation of programs is weak
- More financial regulation to protect students is needed
- Additional sanctions to strengthen regulation are needed
- More information should be provided to prospective students

**Members of the Joint Committee on Proprietary Schools  
January 8, 1991  
Page 2**

**These issues were presented orally to the Joint Select Committee on Proprietary Schools in February of 1990.**

**We appreciate the assistance of the U.S. Department of Education, the Texas Education Agency, the Texas Guaranteed Student Loan Corporation, and other entities involved in this review.**

**Sincerely,**

**Lawrence F. Alwin, CPA  
State Auditor**

**LFA:vib**

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## BACKGROUND

Proprietary schools are privately owned institutions that offer a wide range of training and educational opportunities. Training areas include cosmetology, bartending, truck driving, court reporting, etc. Proprietary schools are licensed by the Texas Education Agency, the Cosmetology Commission, and other state agencies, depending on the types of courses offered.

Many proprietary schools participate in federally guaranteed student loan programs, as do traditional 4-year and 2-year schools. These loan programs are administered by the U.S. Department of Education. If a course of study is 300 hours or more, it qualifies for participation.

The Guaranteed Student Loan Program consists of 3 separate student loan programs.

- **Stafford Loan Program** (subsidized by the federal government) Students must meet income and needs tests to qualify. The loan limit is \$2,625 per year for an undergraduate during his first two years; \$5,000 for upper classmen
- **Supplemental Loans for Students (SLS)** (low federal subsidy) Students pay a market interest rate of up to 12 percent with repayment to begin 30 days after the loan date. There is no income or needs test requirement, and the loan limit is \$4,000 per year
- **Parent Loans for Undergraduate Students (PLUS)** (not federally subsidized) The loan is made to parents for the student. There is no income or needs test, and the loan limit is \$4,000 per year

The Texas Guaranteed Student Loan Corporation (Corporation) is a public, nonprofit corporation set up by the Legislature to act as guarantor on student loans. A guarantor is necessary because the U.S. Department of Education will not deal directly with the schools or with the participating banks. In addition, the U.S. Department of Education does not always reinsure 100 percent, leaving the guarantor with a portion of the liability for defaults. In the 1989 fiscal year, the Texas Guaranteed Student Loan Corporation paid over \$10 million to cover defaults not reinsured by the U.S. Department of Education. The portion paid by the U.S. Department of Education for defaults in Texas exceeded \$100 million.

Revenues of the Corporation are mainly from guarantee fees on loans and federal participation. The Corporation uses these revenues for administrative expenses and for reserves to cover defaulted loans. The Corporation has guaranteed almost \$3 billion in student loans since 1981.



A proprietary school must go through a three-step process to be eligible to participate in the federally guaranteed student loan programs.

1. **Licensure** - The school applies to a state agency for licensure. Several agencies, such as the Texas Education Agency, the Cosmetology Commission, etc, have authority to license schools. In the past, resources have not been adequate to allow state agencies to examine the quality of the schools or programs before licensing.
2. **Accreditation** - Once licensed, a school applies to an accrediting agency. The accrediting agencies are made up of representatives of the proprietary school industry.
3. **Determination of Eligibility** - Once licensed and accredited, the school applies to the U.S. Department of Education for eligibility to participate in the guaranteed student loan programs. If the school is accredited and licensed, the Department will grant eligibility.

The accrediting agency, the state licensing agency, the guarantee agency, and the U.S. Department of Education share regulatory authority.

### OBJECTIVES, SCOPE, AND METHODOLOGY

The objectives of this review are to provide the Joint Committee on Proprietary Schools and the Legislative Audit Committee with an informational overview of proprietary school regulation and to highlight regulatory options for the Joint Committee to consider. The Joint Committee is charged with evaluating the system used to approve and regulate courses of study offered by proprietary schools in Texas.

Our procedures consisted of:

- discussions with representatives of the U.S. Department of Education's Inspector General's Office, the Texas Guaranteed Student Loan Corporation, the Texas Education Agency, proprietary school accrediting agencies, and the Office of the Attorney General
- review of information provided by the entities mentioned above

## RESULTS OF THE REVIEW

According to the Texas Guaranteed Student Loan Corporation, the Texas Education Agency, and others, weak regulation in the past has allowed many low-quality proprietary schools to exist and prosper. This negatively affects society and the proprietary school industry as a whole. Appendix A, entitled "Impact of Past Regulatory Environment," discusses this issue in more detail.

Recently, regulation of proprietary schools has been strengthened through legislation and initiatives of the U.S. Department of Education, the Texas Guaranteed Student Loan Corporation, and the Texas Education Agency. Appendix B, entitled "Current Regulatory Structure," summarizes and outlines the recent legislation and initiatives.

We identified several areas where the Joint Committee on Proprietary Schools could recommend legislation to further strengthen proprietary school regulation. These recommendations focus on regulatory options within the State's purview.

**A. PROPRIETARY SCHOOLS SHOULD BE REGULATED BY ONE STATE AGENCY**

**The State Should  
Consider Establishing  
Or Designating  
One Agency To Regulate  
Proprietary Schools**

In Texas, seven state entities regulate the majority of proprietary schools. These are the Texas Education Agency, the Texas Cosmetology Commission, the Texas Board of Barber Examiners, the Texas Board of Private Investigators and Private Security Agencies, the Department of Public Safety, the Funeral Services Commission, and the Texas Health Department. To make regulation more consistent and effective, the Joint Committee should consider recommending that a single, independent agency regulatory authority over proprietary schools. The Texas Education Agency appears to be the most logical choice.

**B. REGULATION OF PROGRAMS SHOULD BE STRENGTHENED**

Weak regulation of proprietary school courses and programs has been cited as contributing to the following problems:

- courses whose hours have been inflated to qualify for the federal loan programs
- courses that do not meet the needs and desires of industry
- courses that do not meet state licensing requirements

There are additional options available to more aggressively regulate courses and programs.

**The Texas Education  
Agency Should Set  
Admission Standards  
For Various Programs**

Proprietary schools must submit admission standards to the Texas Education Agency for approval. The Joint Committee should consider requiring the Texas Education Agency to set admission standards for various programs. This would provide consistency by informing students about course prerequisites and perhaps increase the success rate of students.

Proprietary schools must give "tests of ability to benefit" to prospective students who do not have a high school diploma. These tests are intended to provide assurance that the prospective student can actually benefit from a program. These tests are not standardized and are graded by the school. The Committee should consider requiring that nationally recognized tests be used as well as centralized grading.

**The State Should Better  
Regulate Program Length  
Standards**

Some schools inflate the number of hours a student must complete to graduate so that the program qualifies for federally guaranteed student loans. The Texas Education Agency and other state regulatory agencies should set the course length standards. This would prevent schools from inflating course hours and would allow for more consistency and consideration of industry needs.

**C. FINANCIAL REGULATION SHOULD BE STRENGTHENED**

Financial regulation of proprietary schools has been weak. This has been due in part to lack of regulatory resources. This weak regulation has resulted in many schools going bankrupt. This leaves the students with a debt but no education. The following financial regulatory measures should be considered by the Joint Committee:

**The Proprietary School  
Fee Schedule Should Be  
More Equitable And  
Should Provide More  
Revenue For Regulation**

The Legislature recently increased the initial and renewal fees paid by proprietary schools to the Texas Education Agency. However, fees are relatively low in relation to proprietary school profits. The fee schedule is also very regressive in nature. Larger schools pay a much smaller proportion of gross revenues than smaller schools. Regulation of proprietary schools is funded entirely from these fees. The current fee schedule is presented in Appendix C.

**The Tuition Protection  
Fund Should Be Enlarged  
And Its Use Expanded**

Senate Bill Number 417, 71st Legislature, established a Tuition Protection Fund to protect students enrolled in a school that closes. This fund, administered by the Texas Education Agency, will be used to pay expenses, including tuition at another school where the student's education continues. Each school is being assessed an amount proportional to their renewal fee to bring the total of the fund to \$250,000.

This fund could be expanded to provide additional protection to students. For example, the Student Tuition Recovery Fund in California makes payments to students who obtain a legal judgment against an institution if the student is unable to collect from the institution. California's fund is set at \$1 million.

The Tuition Protection Fund could be assessed on a more equitable basis, such as number of students or net profit. The manner in which fees are currently assessed for the fund favors the larger schools because the fee is in proportion to the school's renewal fee.

**D. ADDITIONAL SANCTIONS SHOULD BE USED TO STRENGTHEN REGULATION**

In the past, regulators had few effective tools to ensure that proprietary schools provided a quality education and operated in an honest manner.

**Proprietary Schools  
Should Be Penalized  
For Unacceptable  
Completion And  
Employment Rates**

No agency has authority to close a school for low program completion rates or low employment rates. California legislation has a provision which prohibits institutions from operating if their completion or employment rates are below certain levels. Setting and enforcing minimum standards for completion and employment rates should be considered as a possible means of eliminating lower-quality schools.

**Criminal Penalties  
Should Be Used For  
Willful Violation  
Of Law**

Texas law does not provide criminal penalties for willful violation of law, such as not providing prospective students with required information. California legislation provides that willful violation is punishable by imprisonment and/or a fine up to \$50,000.

**E. MORE INFORMATION SHOULD BE PROVIDED TO PROSPECTIVE STUDENTS**

Statute and agency rules require proprietary schools to disclose information on placement and employment rates to prospective students. They must also inform prospective students that the Texas Education Agency has information about similar courses of study offered by other institutions in the area.

Additional disclosures could help students make more informed decisions about the value of their education. This information could be in the form of a brochure prepared by the regulatory agency and distributed to prospective students.

**Proprietary Schools  
Should Provide Additional  
Information On  
Salaries And Wages**

Proprietary schools are not required to disclose information about starting or average salaries paid to graduates under each field of study or program. This information could help prospective students decide what career path to take. The Joint Committee should consider legislation to require proprietary schools to obtain salary information by courses of study or program and to provide it to all prospective students.

**Proprietary Schools  
Should Provide Better  
Information On The  
Availability Of Jobs**

Proprietary schools must provide prospective students with placement and employment rates. However, better information on the availability of jobs and the type of training and education desired by industry could help students make better career choices. This could also help students decide which educational institution would provide the best training and education needed for a particular career.

**Proprietary Schools  
Should Disclose State  
License Requirements  
To Prospective Students**

Proprietary schools are not required to disclose state licensing requirements. This information could alert students to courses of study where hours and cost have been inflated or which will not meet state licensing requirements.

**Proprietary Schools  
Should Disclose Passage  
Rates On State License  
Tests**

Proprietary schools are not required to collect and disclose information about the performance of their graduates on required state licensing examinations. This type of disclosure could help students assess the quality of programs and courses of study.

**Proprietary Schools  
Should Disclose Information  
About Similar  
Programs At Nearby  
Schools**

Proprietary schools must disclose to prospective students that the Texas Education Agency has information about the cost of similar programs provided by other institutions in the area. Perhaps, the school should be required to actually provide the Texas Education Agency's information directly to the student.

### Appendix A-IMPACT OF PAST REGULATORY ENVIRONMENT

Following is a discussion of the effects of a weak regulatory environment on the students, taxpayer, and industry. Sources of our information include the Texas Education Agency, the U.S. Department of Education, the Texas Guaranteed Student Loan Corporation, the U.S. General Accounting Office, and others.

#### STUDENT IMPACT

Recent public attention has focused on the unscrupulous practices of some proprietary schools. Many in Texas, mostly disadvantaged and poorly educated, are lured into taking out federally guaranteed student loans for an education that:

- . they are unable to benefit from
- . they could obtain elsewhere, such as a community college, at a lower cost
- . is poor in quality, sometimes not meeting necessary licensing or certification requirements for the industry
- . does not result in the "high-paying" jobs they were promised
- . is not necessary for the intended field of work

Students of these schools often cannot find employment or must settle for a low-wage job. Students in this situation may not be able to repay their student loan. With a negative mark on their credit history, they cannot obtain student loans in the future and, thus, have limited the chance of furthering their education. The student may also be barred from acquiring a professional license from the State.

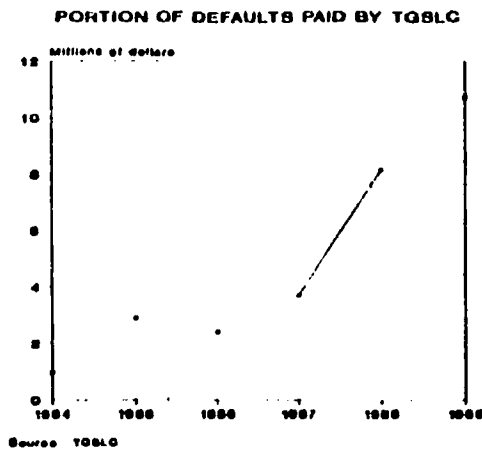
#### FINANCIAL IMPACT

In the 1989 fiscal year, the federal government (U.S. Department of Education) paid over \$2 billion nationally to cover defaulted student loans. Approximately \$100 million was for defaults in Texas. Since the U.S. Department of Education does not cover (reinsure) the full amount of the defaults, the Texas Guaranteed Student Loan Corporation paid the remainder, which was over \$10 million. This money is derived mainly from loan origination fees. The Corporation has not received any state funds since 1980, when the State appropriated \$15 million as start-up money.

The U.S. Department of Education pays reinsurance for default claims to the Texas Guaranteed Student Loan Corporation according to the following schedule of annual cumulative Corporation default rates:

<u>Annual Default Rate</u>	<u>Federal Reinsurance</u>
0% to less than 5%	100%
5% to less than 9%	90%
9% or greater	80%

The Corporation pays the portion of the claims not reinsured 100 percent from its reserve account. The following illustrates amounts the Corporation paid for loan defaults



#### PROPRIETARY SCHOOL INDUSTRY IMPACT

Many proprietary schools provide a valuable service to the public and to industry. If these marginal and low-quality proprietary schools are not eliminated or improved, the entire industry may suffer.



**Appendix B—CURRENT REGULATORY STRUCTURE****RECENT INITIATIVES TO STRENGTHEN REGULATION**

Following is a discussion of recent initiatives at the federal and state level aimed at reducing costs to taxpayers and improving the quality of education.

**A. U.S. DEPARTMENT OF EDUCATION**

Congress recently enacted legislation to restrict participation in the federally guaranteed student loan program. Some of the provisions are:

- Students attending an institution with a cohort default rate of 30 percent or more cannot participate in the Supplemental Loans for Students program. In addition, the Secretary of Education must prescribe regulations to prevent an institution from evading this provision through branching, consolidation, change of ownership, or any similar device.
- Maximum Supplemental Loans for Students amounts are limited to:
  - \$2,500 for a student enrolled in a program whose length is at least two-thirds of an academic year
  - \$1,500 for a student enrolled in a program whose length is less than two-thirds, but at least one-third, of an academic year
  - zero for a student enrolled in a program whose length is less than one-third of an academic year
- Students must have a high school equivalency to participate in the Supplemental Loans for Students program.
- Schools must disburse loan proceeds in two or more installments.
- From March 1, 1990 to September 1, 1990, a person could repay a defaulted loan without penalty. The guaranty agency will report payment to the appropriate credit bureau and the person is eligible to participate in loan programs.
- The U.S. Department of Education and the guarantee agency can act to stop loans from being made if necessary to prevent the misuse of federal funds.

- . An institution is not eligible to participate in the loan programs if it has lost its accreditation within the past two years.
- . A data system will be developed to capture information on student loans nationwide.

The U.S. Department of Education has adopted default reduction regulations affecting schools in the following categories:

Default rates over 60%	Schools are subject to limitation, suspension, or termination from the Guaranteed Student Loan Program.
Default rates from 40-60%	Schools must reduce the default rate by 5% per year.
Default rates over 30%	Schools must hold loan proceeds to first-time borrowers until 30 days after the first day of class. Schools must prorate tuition refunds to borrowers who drop out before the halfway point of a course or in the first 6 months, whichever is earlier.
Default rates over 20%	Schools must submit management plans to address causes of defaults.
All schools	Schools must provide entrance counseling to first-time borrowers.
Vocational schools	Schools must compile and disclose consumer information to all prospective students, including program completion and job placement rates.

## B. TEXAS GUARANTEED STUDENT LOAN CORPORATION

House Bill Number 715, 71st Legislature, requires the Corporation to:

- . take the lead in working with others to reduce default rates
- . calculate maximum acceptable default rates for institutions, intervene if those rates are exceeded, carry out compliance reviews, and require the institutions to develop and adhere to policies which will contribute to lowering institutional default rates

as a requirement for continued participation in the guaranteed student loan programs

- develop and carry out a plan, in cooperation with the state's professional/occupational licensing agencies, whereby holders of licenses who have defaulted on guaranteed student loans can be identified and notified that their license will not be renewed until they enter into a repayment agreement with the Corporation

In January of 1989, the Corporation became concerned because of the rising amount of default claims. The Corporation's Board adopted rules which restrict participation in the guaranteed student loan program. This action resulted in the elimination of several schools from the program. Some of the specific actions taken are as follows:

- The Corporation started a section which audits institutions for program compliance.
- The Corporation is requiring that lenders only make Supplemental Loans for Students and Parent Loans for Undergraduate Students to creditworthy borrowers.
- The Corporation requires that Pell Grant and Stafford Loan eligibility be determined before applying for Supplemental Loans for Students.
- The Corporation increased the guarantee fee on Stafford Loans for proprietary schools from 25 percent to 3 percent, the maximum allowed by federal law.

In October of 1989, the Texas Guaranteed Student Loan Corporation established a consortium made up of representatives of the Texas Education Agency, the Cosmetology Commission, the U.S. Department of Education, the Attorney General's Office, the State Auditor's Office, and others. This consortium meets regularly to discuss problems and improve communication and coordination among agencies. The consortium has been very effective in educating all parties involved and bringing the significant problems to the surface so they can be dealt with.

### C. TEXAS EDUCATION AGENCY

Senate Bill Number 417, 71st Legislature, requires the Texas Education Agency to:

- develop, in consultation with Corporation and other appropriate agencies, a comprehensive strategy to reduce default rates at proprietary schools and improve the overall quality of the programs they offer

- collect from proprietary schools (1) current rates of completion and job placement, (2) admission requirements for each course offering, and (3) course hour length and curriculum content
- prepare a cost comparison of courses offered by proprietary schools and similar courses taught by other types of schools
- ensure that proprietary schools provide prospective students with:
  - a course outline
  - a schedule of tuition and fees
  - the school's refund, grading, and incomplete grade policies
  - the name, address, and telephone number of the Texas Education Agency
  - current rates of completion and job placement
  - the cost of course comparison that the Texas Education Agency will compile
- enter into a "Memorandum of Understanding for Regulation of Proprietary Schools" with the Corporation and all other agencies that regulate proprietary schools. The Memorandum will require the:
  - development and monitoring of indicators to identify schools that have excessive loan default rates, poor program performance, or both
  - sharing of specific information relating to the indicators between the Texas Education Agency and the Corporation or other agency
  - application of specific sanctions by the Texas Education Agency or by the Corporation or other agency, as appropriate, to lower the default rates, improve program performance, or both

The Texas Education Agency is increasing staffing in their Division of Proprietary Schools and Veterans Education to address the requirements of Senate Bill 417.

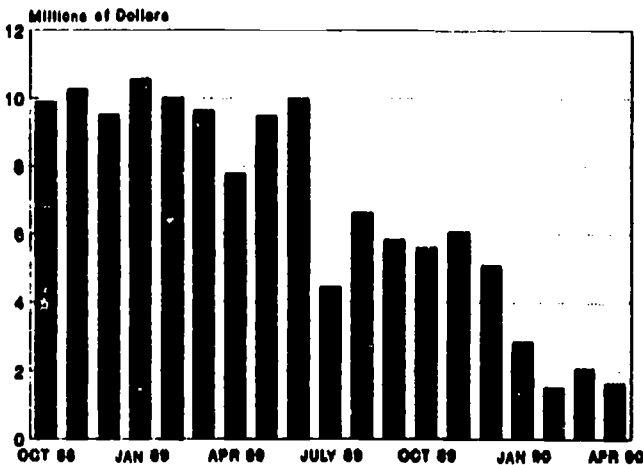
The Texas Education Agency is

- establishing an agreement with the Texas Higher Education Coordinating Board to collect data to compare the cost of programs being offered by schools
- collecting data from experts to determine minimum program standards for bartending, beverage management, and nurse's aide courses

- establishing a memorandum of understanding with the Texas Guaranteed Student Loan Corporation and each agency to develop a comprehensive strategy to improve the quality of education and reduce the student loan default rate
- approving student admission requirements, course-hour lengths, and curriculum content
- assessing interest in the amount of 20.5 percent on late refunds
- assessing a fee of 20 percent of the renewal fee amount for the student tuition protection fund

An example of the financial impact of some of these regulatory enhancements is the decrease in the amount of student loans made under the Supplemental Loans for Students program. This loan program has had serious problems with proprietary school defaults. The following illustrates the Supplemental loans for Students program loan activity from October 1988 to March 1990 for proprietary schools:

**SUPPLEMENTAL LOANS FOR STUDENTS  
LOAN ACTIVITY BY MONTH - PROPRIETARY SCHOOLS**



Source: Texas Guaranteed Student Loan Corporation

## Appendix C-PROPRIETARY SCHOOL FEES EFFECTIVE SEPTEMBER 19, 1989

Original or Change in Ownership Certificate of Approval .....	\$2,550.00
First annual renewal fee .....	\$2,100.00
Renewal of Certificate of Approval based on gross amount, student tuition and fees:	
not more than \$50,000 .....	\$ 825.00
more than \$50,000, but not more than 100,000 .....	\$ 975.00
more than 100,000, but not more than 250,000 .....	\$1,125.00
more than 250,000, but not more than 500,000 .....	\$1,275.00
more than 500,000, but not more than 750,000 .....	\$1,425.00
more than 750,000, but not more than 1,000,000 .....	\$1,575.00
more than 1,000,000 .....	\$1,725.00
Late renewal fee .....	12% of Annual Renewal Fee
Fee for Tuition Recovery Fund .....	20% of Annual Renewal Fee (effective with February 1990 renewals)
Initial Representative .....	\$ 90.00
Annual renewal for a representative .....	\$ 45.00
Change in the name of the school or school owner .....	\$ 150.00
Change in the address of the school .....	\$ 270.00
Change in the name or address of a representative or a change of name or address of a school that causes the reissuing of a representative permit .....	\$ 15.00
Additional course - regular .....	\$ 225.00
seminar and workshop .....	\$ 35.00
Director, administrative staff member, or instructor .....	\$ 20.00

**REVIEW OF PROPRIETARY SCHOOL REGULATION****JANUARY 1991**

Degree granting approval .....	\$3,000.00
Additional degrees .....	\$ 375.00
Classroom facility separate from main campus .....	\$ 375.00
Investigation of a complaint against a school if the school is at fault .....	\$ 600.00
School operating through a memorandum of understanding .....	\$2,000.00

**STATE OF TEXAS  
OFFICE OF THE STATE AUDITOR  
PERFORMANCE AUDIT DIVISION**

**REVIEW OF PROPRIETARY SCHOOL REGULATION**

**JANUARY 1991**

Copies of this report have been distributed to the following

Honorable William P. Clements, Jr., Governor of Texas

**Legislative Audit Committee**

Honorable Gib Lewis, Speaker of the House

Honorable William P. Hobby, Jr., Lieutenant Governor

Senator John Montford

Senator Bob Glasgow

Representative Jim Rudd

Representative James Hury, Jr.

**Governor's Office of Budget and Planning**

Sheila Beckett, Director

**Legislative Budget Board**

Jim Oliver, Director

**Sunset Advisory Commission**

Bill Wells, Director



## SYNOPSIS

Agency # 999

Report #

Proprietary School Regulation  
Briefing Report

Release Date

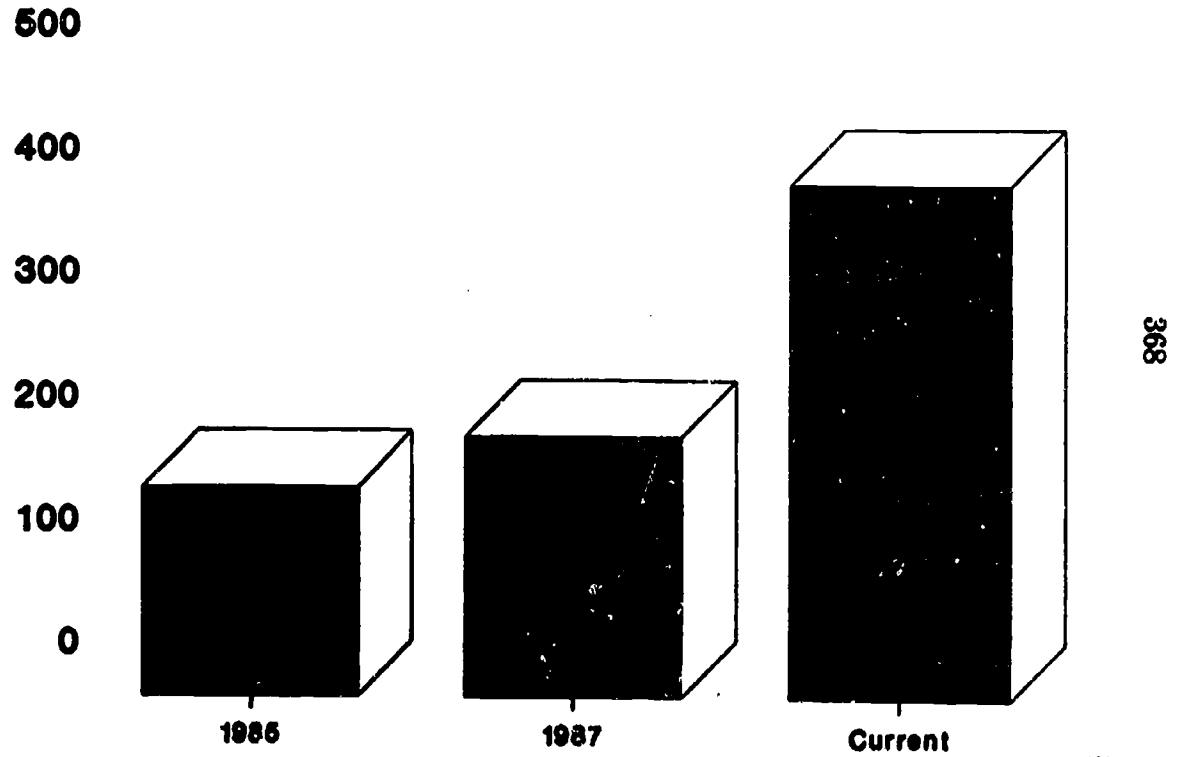
Federally guaranteed student loan defaults by proprietary school students are costing taxpayers over \$2 billion per year nationally. In 1989, approximately \$100 million in taxpayer dollars was paid for defaults in Texas. The briefing report identifies several areas for the Joint Committee on Proprietary Schools where the State could strengthen regulation of proprietary schools. This would result in lower the cost to taxpayers and ensuring that students received a quality education.

The primary suggestion is that the Committee consider consolidating regulatory authority into one agency. Currently, regulation is the responsibility of several agencies. Other suggestions are to strengthen the actual regulation of programs, to strengthen financial regulations, to implement sanctions for more effective regulation, and to provide more information to prospective students.

**SCOPE:** We prepared this briefing report to assist the Joint Committee on Proprietary Schools in carrying out their charge of evaluating the system used to approve and regulate courses of study offered by proprietary schools in Texas. The report provides an overview of current regulation and identifies issues which indicate that regulation should be strengthened.

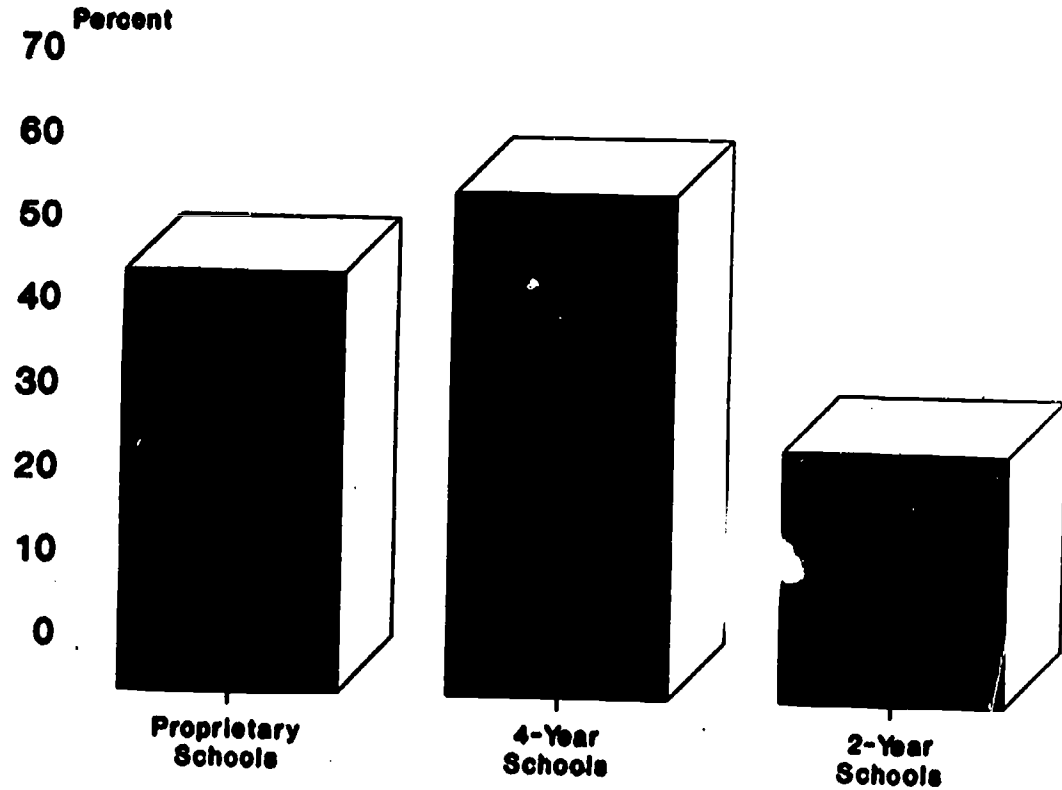
In preparing the report, we interviewed the entities involved in the regulation of proprietary schools, including the U.S. Department of Education, the Texas Education Agency, the Texas Guaranteed Student Loan Corporation, and others. We also reviewed documents from these entities and from other sources.

## Growth of Proprietary Schools in Texas



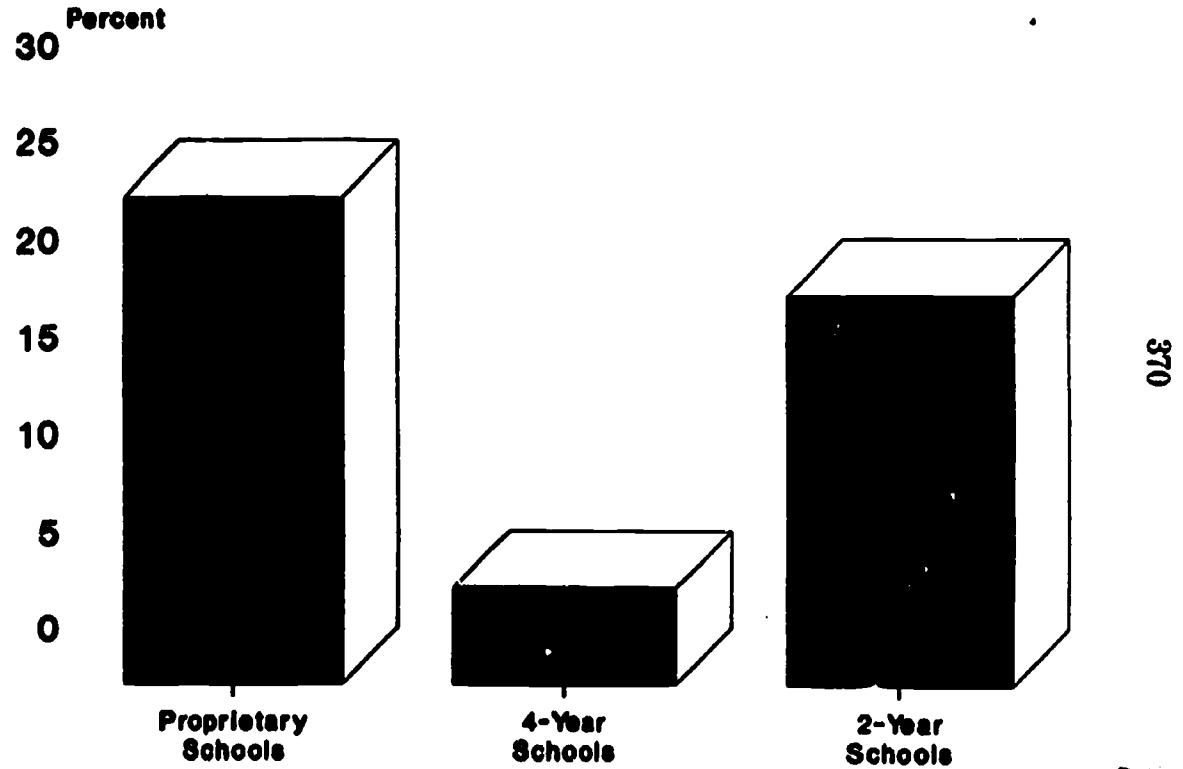
Source: Texas Guaranteed Student Loan Corporation

## Percentage of Schools With Default Rates of Less Than Ten Percent



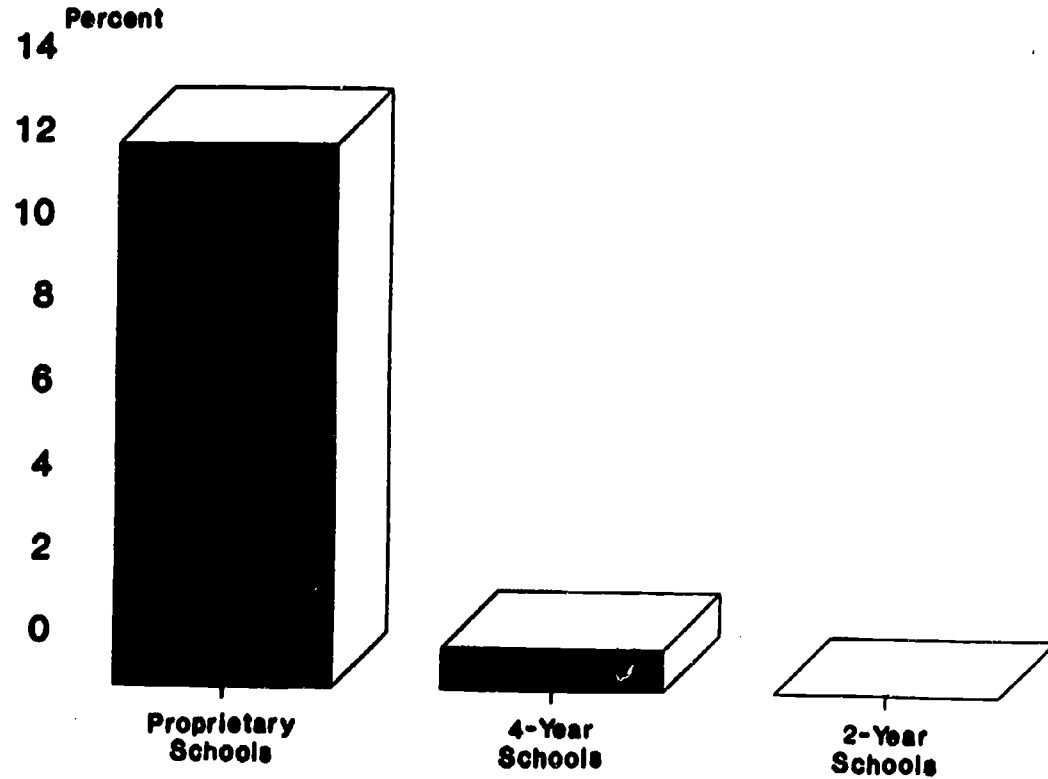
Source: Texas Guaranteed Student Loan Corporation

## Percentage of Schools With Default Rates of Over Twenty-five Percent



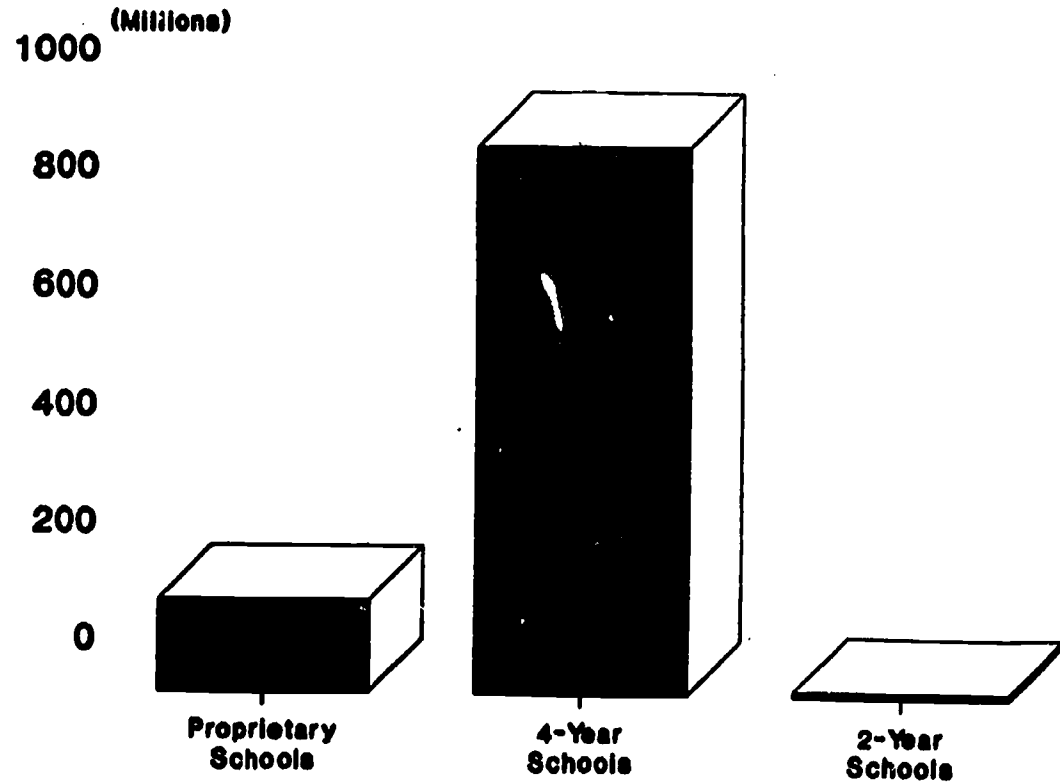
Source: Texas Guaranteed Student Loan Corporation

## Percentage of Schools With Default Rates of Over Thirty-five Percent



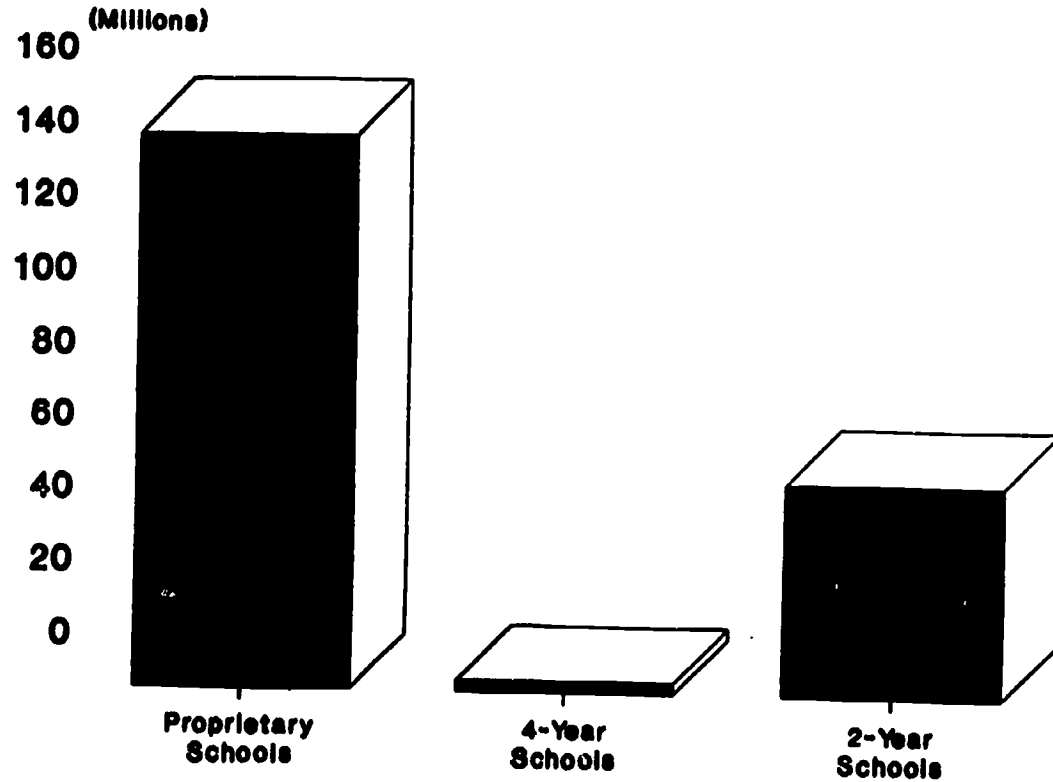
Source: Texas Guaranteed Student Loan Corporation

## Dollars Guaranteed For Schools With Default Rates Under Ten Percent



Source: Texas Guaranteed Student Loan Corporation

## Dollars Guaranteed For Schools With Default Rates Over Twenty-five Percent



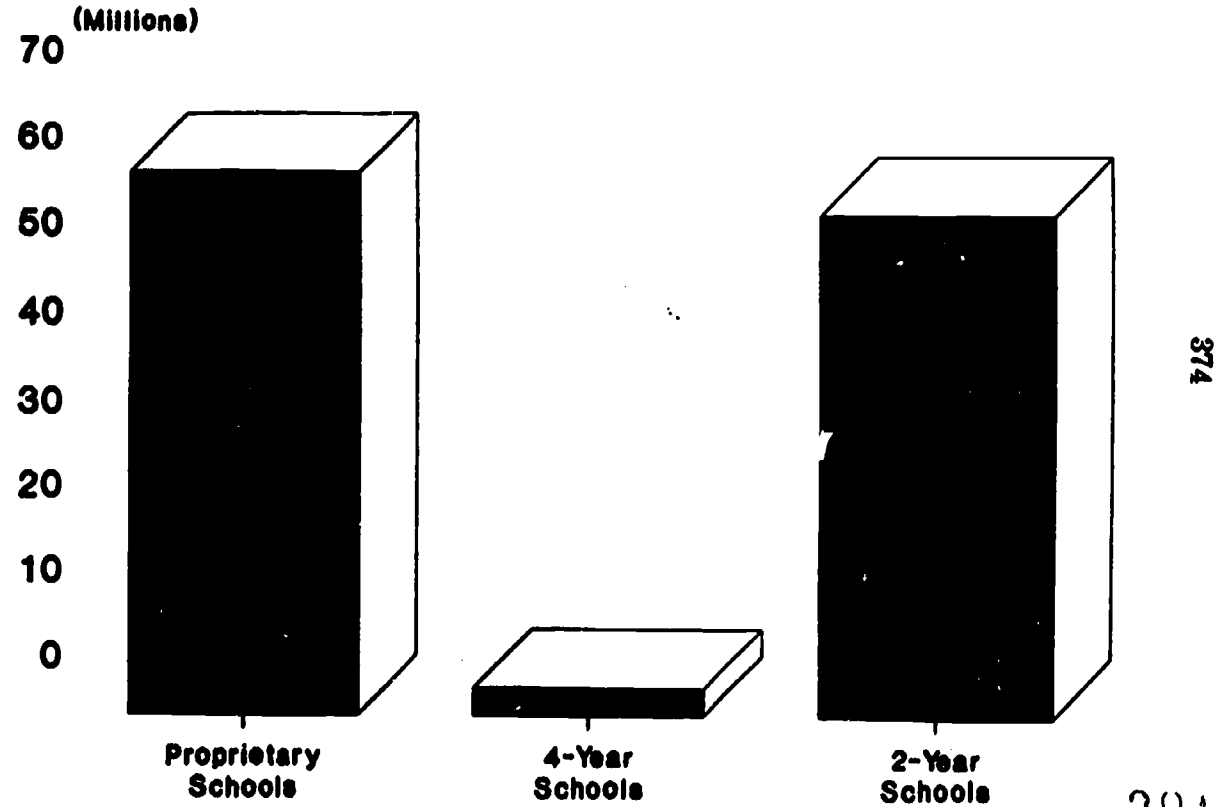
373

358

Source: Texas Guaranteed Student Loan Corporation

359

## Dollars Guaranteed For Schools With Default Rates Over Thirty-five Percent



200

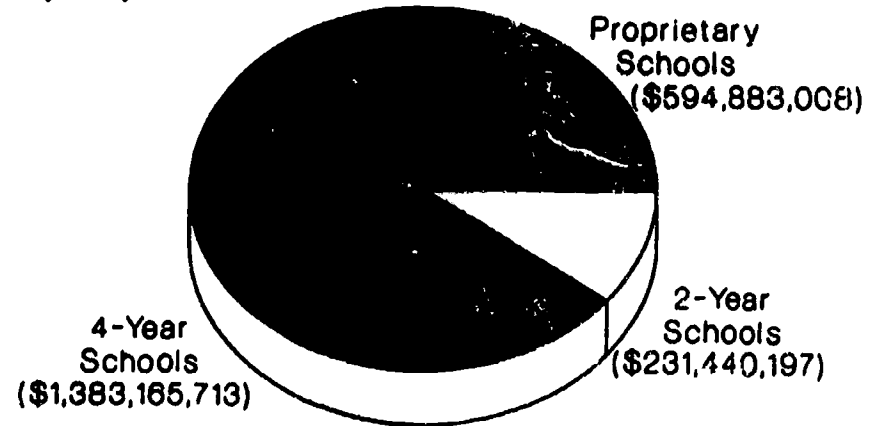
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Source: Texas Guaranteed Student Loan Corporation



# Total Dollars Guaranteed

**Total (as of 3-31-89)**  
**\$2,209,488,918**



Source: Texas Guaranteed Student Loan Corporation

# CRS Report for Congress

## Proprietary Schools: The Regulatory Structure

Margot A. Schenat  
Specialist in Social Legislation  
Education and Public Welfare Division

August 31, 1990

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APPENDIX 3

# PROPRIETARY SCHOOLS: THE REGULATORY STRUCTURE

## SUMMARY

Proprietary schools, which are privately owned postsecondary institutions operated for profit, usually provide short-term job training in a wide variety of occupational subjects. Their students receive about \$5 billion in Federal student aid awards annually.

Insuring that these public funds are well spent requires the development of an adequate regulatory structure. For schools that participate in student financial aid programs, this structure consists of a three-part system that is commonly referred to as the "triad": accreditation, State licensing, and Federal eligibility and certification. Accreditation and State licensing developed independently, and Federal regulatory interests are secondary. The U.S. Department of Education's only influence on eligibility determination is indirect, and the certification requirements are minimal. Specific regulatory issues with which the "triad" must deal include program quality, institutional integrity, and student protection.

Program quality and effectiveness are a function both of the nature of the programs offered (short-term job training) and of the types of students attracted to such schools (lower-achieving). Defining and measuring program quality is not an easy task, however. None of the agencies in the current regulatory structure address questions of the appropriate program length or cost of a program in relation to its declared objectives.

Institutional integrity, i.e., financial and administrative capacity, is important in order to avoid providing financial assistance to students to attend institutions that are chronically financially unstable, or about to close. Annual monitoring is important, yet there are gaps in financial monitoring procedures at all three levels in the current structure. Despite the potential for instability, new branches and new owners can continue to receive Federal title IV funds without interruption under current Federal regulations.

Student protection issues focus primarily on recruitment and admissions processes. Questionable recruitment tactics become a particularly serious problem when combined with misuse of admissions standards. Admissions standards must be designed to legitimately screen out those unlikely to succeed without discriminating against the very students most in need of a chance. The ability of accrediting agencies, and States and Federal regulations to protect against abuses in recruitment and admissions is limited.

Given these concerns, we must recognize that no regulatory structure can prevent all fraud and abuse. Treating the regulatory structure as a triad may be misleading and diminish the Federal regulatory role. Finally, the current system of postsecondary education, regardless of the level or institutional sector, often may not ensure a good match between students and schools. Given that fact, and a continued commitment by Congress to help provide access, student aid policies may need to be reassessed in terms of the extent to which they allow students the opportunity to try again.

## PREFACE

This report is one of a series of studies the Congressional Research Service has made of proprietary schools. We undertook the series in response to congressional requests for information about the schools in light of the fraud and abuse with which some have been charged. The series focuses on issues likely to be important during the forthcoming reauthorization of the Higher Education Act, including the educational opportunities they offer some students and the increasing amounts of Federal student aid they receive.

Proprietary schools are postsecondary vocational schools that are privately owned and operated for profit. They also are known as private career or private trade and business schools. Most proprietary school programs can be completed in 6 to 9 months, allowing students to obtain training without losing much time from work. While community colleges also offer short-term programs, as do some 4-year colleges, proprietary schools can be distinguished from most institutions of higher education by their consistent focus on vocational training. Colleges typically have academic programs leading toward degrees, even if they also have vocational programs. Relatively few proprietary schools award degrees.

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A series of studies about proprietary schools covering:

- the schools and their students
  - student aid
  - regulation
  - labor market outcomes
- 

Proprietary schools provide instruction in a wide variety of occupational subjects: business and secretarial skills, computers and information processing, marketing, travel and tourism, hotel management, culinary arts, cosmetology, health services, electronics, automotive maintenance and repair, truck driving, security guards, building maintenance, and many others. In several fields the proprietary school sector is a major provider of pre-employment training. Nonetheless, most postsecondary vocational education occurs in colleges and universities, and much occupational learning occurs on the job.

Currently, there are over 6,000 proprietary schools and branches in the United States—more than all the colleges and universities. Most proprietary schools are small, but those with classroom instruction enroll well over one million students every year. Proprietary correspondence schools enroll about one-half as many. While the actual number of proprietary school students is difficult to determine from Federal surveys, they probably constitute between 9 and 12 percent of all undergraduate enrollment in a given year. Compared to colleges, proprietary schools are likely to have higher proportions of students who are minority, female, lower income, or without a high school diploma. Student bodies in individual schools differ substantially, though, and most postsecondary students with any of these characteristics are enrolled in colleges. For additional information, see *Proprietary Schools: A Description of Institutions and Students*, by Richard N. Apling with Steven R. Aleman.

Federal financial aid to proprietary school students is controversial. One reason is the significant increase during the 1980s in their use of subsidized loans and grants. Proprietary school students now receive about one-third of Guaranteed Student Loans (GSLs) and one-quarter of Pell grants. Some people contend that this increase could result in less aid being available for college students. Their concern is magnified by two associated problems: proprietary school students' 40 percent GSL default rate--twice the rate of community college students and 4 times that of students from 4-year schools--and persistent allegations of fraud and abuse in the way a number of proprietary schools administer the aid programs. It is argued, however, that changes in Federal policies to address these problems could restrict postsecondary educational opportunities for some students. These and other issues related to the future of student aid for proprietary school students are analyzed in *Proprietary Schools and Student Financial Aid Programs: Background and Policy Issues*, by Charlotte Fraas.

The way proprietary schools are regulated has come under scrutiny. Currently the schools are subject to a three-part regulatory structure known as the "triad": private accreditation, State licensing, and Federal eligibility and certification. But frequent allegations of abuses by some schools show the limitations of these systems. Accrediting associations help schools raise standards through voluntary evaluation; created and controlled by the schools themselves, they have limited enforcement powers. Licensing requirements vary widely among States and may not address program quality. Eligibility and certification requirements for Department of Education student aid programs are neither adequate nor properly enforced, according to Inspector General reports. Proprietary schools are also subject to market forces to the extent they must compete for students. Yet if students are not knowledgeable consumers, as sometimes seems the case, the marketplace may not offer much protection. *Proprietary Schools: The Regulatory Structure*, by Margot Schenet, provides an analysis of these issues.

How proprietary schools affect the subsequent work and earnings of their students is not an easy question to answer. Little research has been done on the subject. Moreover, the question must be approached in different ways depending on the policy issue. Knowing how much proprietary school students subsequently earn, for example, would be helpful for determining whether they can pay back student loans. Knowing what similar students earn after attending community college, or perhaps not going on to school at all, would help determine the relative effectiveness of proprietary schools. Knowing if the students' additional earnings exceed the cost of the schooling would be useful for determining whether proprietary school education is a good investment. Whatever the issue, it is important to take account of differences in ability and prior education and training. Current research cannot yield conclusive findings on these matters, though it does suggest ideas for how the training of students beyond high school might be improved. For further discussion, see *Labor Market Outcomes of Proprietary Schools*, by Tom Gaba, Steven R. Aleman, and Bob Lyke.

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# **PROPRIETARY SCHOOLS: THE REGULATORY STRUCTURE**

## **CHAPTER 1**

### **WHY REGULATE? BACKGROUND AND ISSUES**

#### **BACKGROUND**

The design of Federal student financial assistance programs is rooted in a number of unique characteristics of American postsecondary education. Two main characteristics are the diversity of postsecondary institutions and the prohibition on Federal control of education. The universe of postsecondary education institutions includes publicly supported colleges and universities, community colleges and vocational schools, private nonprofit institutions, and proprietary schools, all of which make independent decisions on curriculum and admissions. Students themselves make their own choices of the type of institution they wish to attend. The role of the Federal Government is not to control but to provide aid to students so that student choice is not restricted by the costs and the level of the student's or his/her family's income. Students ideally make the choice of institution based on interest, geography, and the school's academic standards.

While Americans pride themselves on the diversity and independence of our higher education system, we have to live with certain consequences. These consequences include the possibility that some institutions will not provide an adequate education, and that not all students will make good choices. In order to protect the independence and diversity of the system and still allow students access and some degree of choice, adequate regulatory structures have to be developed to deal with these problems.

Concerns about whether students receive an adequate education or make the right choice of postsecondary training have always existed, but when most student aid was in the form of grants and scholarships, problems were not as visible nor fiscal implications as obvious. Loans have now replaced grants as the major source of student aid. By relying on loans, which the Government guarantees against default, attention is directed to the results of the education that the assistance has provided access to, since students whose educational experience is unsuccessful may be more likely to default on student loans.

In order to insure that Federal funds are well spent and that access means the opportunity for meaningful educational choices and quality programs, some Federal regulation of all postsecondary institutions has always been considered appropriate. However, rather than directly establish Federal standards for educational quality, the responsibility was delegated to agencies

outside the Federal Government. Beginning with the G.I. bill, the first broad-scale program of Federal aid to postsecondary students, a process was set up for the Federal Government to list "nationally recognized" accrediting agencies that could attest to the quality of postsecondary institutions. This was intended to help assure that the public dollar spent at any school--public, private nonprofit or for-profit--would be well spent.

Current student financial assistance programs authorized under title IV of the Higher Education Act of 1965 include standards of eligibility for schools, including proprietary vocational schools, as well as students. In congressional testimony in 1974 on the eligibility system for postsecondary student aid, researcher Dr. Harold Orlans stated the purposes of a Federal eligibility system: "A system of eligibility for large numbers of students and postsecondary schools should be equitable, offering students and schools in every State and field an equal opportunity to qualify; it should insure that funds are spent for the purpose for which they are appropriated--not always precisely defined--and it should give students an honest and, if possible, useful education."<sup>1</sup>

The purpose of this report is to examine whether the current regulatory structure is adequate to deal with concerns about program quality, institutional integrity and student protection in the proprietary sector. While this paper focuses on proprietary schools, concerns about program quality, institutional integrity, and student protection are applicable to all postsecondary institutions. Traditional institutions of higher education (public and private nonprofit institutions) have the potential for wrongdoing and may not always deliver a dollar in educational value for every dollar they receive. Deceitful advertising, aggressive and misleading recruiting, the watering down of educational standards, and financial instability can occur in traditional institutions too. One current example is the scandals and issues surrounding recruitment of student athletes and the efforts to legislate a certain amount of consumer protection through the disclosure of graduation rates for student athletes at schools that receive Federal funds.<sup>2</sup>

The rest of this chapter summarizes the key regulatory issues as they relate to the proprietary sector. The next chapter describes the basic regulatory structures and processes for school participation in Federal student financial aid programs. The rest of the paper focuses on the three major regulatory issues: program quality, institutional integrity, i.e., financial and administrative capacity, and student protection. The report looks at the

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<sup>1</sup>U.S. Congress. House. Committee on Education and Labor. Special Subcommittee on Education. Federal Higher Education Programs. *Institutional Eligibility*. Hearings, 93d Congress, 2d Sess., Part 1, Accreditation, July 18, 19, and 26, 1974. Washington, GPO, 1974. p. 226.

<sup>2</sup>As passed by the House on June 5, 1990, H.R.1454 would require all schools that receive Federal funds to report graduation rates for full-time students and student athletes. *Congressional Record*, June 5, 1990. p. H3119.



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current efforts in these areas, gaps in regulation and possible options to achieve policy objectives. The concluding section attempts to place these issues in the broader context of student financial aid policies at the Federal level.

## ISSUES

Insuring that public funds are well spent raises regulatory issues about program quality, institutional integrity, and student protection. While these concerns apply to all postsecondary institutions, specific aspects are particularly relevant for schools that offer vocational programs, including proprietary schools.

Questions about the quality and effectiveness of vocational programs are a function both of the nature of the programs offered and of the types of students attracted to such schools. These programs offer short-term training specifically designed to prepare students for particular jobs. Because of the close relationship between program content and the job market, program quality requires continual change and adjustment. In addition, program quality is important in the vocational school sector because of the students these schools serve. Many of the students attracted to vocational programs are low-income, lower-achieving students, including high school dropouts. These potential proprietary school students may be less likely to have access to counseling and information on postsecondary choices, and may be relatively unsophisticated about the connection between any higher education and the job market.

Program quality and the question of the effectiveness of vocational programs is also a critical component in achievement of the Federal goal of access. Providing access for poor students to postsecondary opportunities was not meant to provide opportunities for failure, minimum wage jobs or unemployment as the result of a poor quality education.<sup>5</sup> Instead the goal is access to quality training leading to valued skills and well-paying jobs. Defining and measuring program quality is not an easy task, however. Regulatory agencies may look at various outcome measures, such as dropout/graduation rates, job placement success, or at questions concerning the appropriateness of the program's length and cost in relation to resulting job opportunities.

Institutional integrity, i.e., whether the school has the financial and administrative capacity and stability to provide the education and training it promises, is also a concern for the proprietary sector. As private profitmaking entities with a need for rapid turnaround in programs and student clientele and a dependence on Federal student aid for much of their revenues, their potential for financial instability may be considerable. The profit motive may

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<sup>5</sup>Technical Failures. State's Vocational Schools Deceive Students, Public on Job-Placement Scrutiny. *Minneapolis Star Tribune*, Apr. 23, 1988. p. 1A.

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also lead to greater pressures for too rapid growth, expansion into branch campuses and buying and selling schools. The regulatory structure may monitor financial stability, seek to protect students and the Government from the consequences of school closures, and review decisions to establish branch campuses or buy and sell schools.

Consumer protection is also an important issue for proprietary schools because of the nature of the schools. In colleges and universities, the relationship between a major or course of study and a future job can be somewhat indirect. Students often enter without a clear idea of how they will use their education, and may change majors. In proprietary schools, the avowed purpose is to prepare students for specific occupations. This makes it easier to test their claims against results than for traditional institutions, and, at the same time, makes it more important that students have accurate information, since they are purchasing a specific service.<sup>4</sup>

In order to evaluate a program as a means to a particular job, students need to know the prospects for completing the course, and for getting work in the area for which they are trained. In addition, because of the unitary nature of the proprietary school programs—a single course of study that leads to a certificate in x amount of time, instead of a series of courses, for each of which the student receives separate credit—and, because of the lack of transferability of credits, selecting the wrong program and dropping out may have much more serious consequences for the student consumer whose investment could be totally lost. Regulatory efforts may focus on review of recruitment and admissions practices, student information disclosure requirements, and efforts to encourage schools to increase student retention.

There have been reports of consumer protection problems in the proprietary sector at least since the schools began to participate in title IV student financial assistance programs in the early 1970s. In 1975, the American Institutes for Research completed a report for the U.S. Office of Education that found proprietary schools had a higher potential for consumer abuse than nonprofitmaking institutions. The Government Operations Committee in the House of Representatives held hearings on consumer complaints and fraud and abuse in the proprietary school sector in 1974, and in the same year, the Federal Trade Commission began developing a trade rule to protect student consumers from alleged misleading advertising and high-pressure recruitment tactics of proprietary schools.<sup>5</sup>

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<sup>4</sup>Oriana, Harold. *Private Accreditation and Public Eligibility*. Lexington, Mass., D.C. Heath and Company, 1975. p. 191-2. (Hereafter cited as *Private Accreditation*)

<sup>5</sup>Most of these activities in the 1970s did not result in major changes in the regulatory structure for proprietary school participation in student financial assistance programs, but their existence does indicate that the question is not a new one. Jung, S. et al. *Improving the Consumer Protection Function in Postsecondary Education*. Final Report AIE-62800, revised June 1977. Palo Alto, American Institutes for Research, 1977. U.S. Congress. House (continued...)

The main function of regulation by the U.S. Department of Education (ED) is to insure appropriate use of Federal funds to benefit the intended recipients. Some of the current concern surrounding the participation of the proprietary sector in student financial aid programs has centered on allegations of deliberate fraud and abuse. Even the best regulatory structure cannot guarantee the elimination of all fraud and abuse. Indeed, it is unlikely that any regulatory structure on its own can prevent all attempts to bilk the public. However, monitoring and oversight provisions that are strict and consistently enforced may deter some future abuse and enable the system to detect abuses after they have occurred. On the other hand, the best remedy to reduce fraud and abuse may lie not in greater regulation or enforcement of regulations but in changing the incentive structure of the programs to make it less appealing to those with criminal intent.

This paper describes the structure of regulation for proprietary schools at the Federal, State, and accrediting agency levels and analyzes appropriate regulatory responses to the issues of program quality, institutional integrity, and student protection. It is not an independent evaluation of the implementation or enforcement of existing regulations, although reports relating to these activities are noted.<sup>8</sup>

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<sup>8</sup>(...continued)

Committee on Government Operations. *Reducing Abuses in Proprietary Vocational Education*. Twenty-Seventh Report, Dec. 30, 1974. Washington, GPO, 1974. *Proprietary Vocational and Home Study Schools: Trade Regulation Rules*. FR 43, Dec. 26, 1973. p. 60796-60827.

<sup>9</sup>We have relied on previous studies, published documents of the regulatory agencies involved, and conversations with staff at various levels in preparing this report. At the State level, we limited our review of actual statutes/regulations to the six States with the greatest proportion of proprietary school students or schools (Calif., Tex., N.Y., Pa., Ill., and Ohio), as well as published studies and surveys that described the regulations in other States.

## CHAPTER 2 STRUCTURE AND PROCESS: THE TRIAD

- Accreditation is a private process undertaken in the interests of and financed by accredited schools. Federal program interests are secondary.
- States vary in how they regulate proprietary schools. Different States have different requirements for licensed schools, and vary in the extent of their oversight.
- Federal regulation of proprietary school participation in title IV programs has a number of limitations. ED's only influence on eligibility determination is indirect, and the certification requirements are minimal.

For schools that participate in student financial aid programs, the regulatory structure consists of a three-part system that is commonly referred to as the "triad." In order for students attending a school to receive Federal assistance, the school must: 1) be accredited by an agency recognized for that purpose as listed by the Secretary of Education, 2) be licensed or otherwise legally authorized to provide postsecondary education in the State in which it is located, and 3) be deemed eligible and certified to participate in student aid programs by the U.S. Department of Education (ED).<sup>7</sup>

Of the three components of the "triad"--accreditation, State licensing, and eligibility and certification--two of these components developed independently of any Federal program needs to serve purposes related to quality assurance and consumer protection, but not necessarily from the Federal perspective. To avoid activating fears about Federal interference in educational decisionmaking, the Federal Government generally and the ED, specifically, have relied on accrediting agencies and State licensing to determine standards of program quality. Traditional definitions of educational quality have focused on school characteristics as indicators of quality, such as faculty qualifications, the curricula, and admissions standards. The legislation establishing the ED specifically prohibits it from exercising "any direction, supervision, or control over the curriculum, program of instruction, administration, or personnel of any educational institution, school, or school system, over any accrediting agency or association . . . ." Attempts to set independent Federal standards of higher education curricula, and/or administration of programs have traditionally been viewed as violating this

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<sup>7</sup>See 20 U.S.C. 1068(b), 1062, 1065, 1068, 1094 and 1141.

provision, and have been attacked as infringement on "academic freedom" as well.<sup>8</sup>

Thus, a three-pronged system of regulation developed, with each component operating independently and having different purposes and histories. Accreditation agencies, which are private organizations set up to review the qualifications of member institutions, are the locus for essentially self-initiated quality guidelines and self-improvement efforts. State agencies, such as school licensing bureaus, exercise minimal educational quality control, and consumer protection standards. The Federal Government, through ED, is the third arm of the triad, focusing on protecting the administrative and fiscal integrity of its funding programs.

## ACCREDITATION

According to the Council on Postsecondary Accreditation or COPA, accreditation is "a system for recognizing educational institutions and professional programs affiliated with those institutions for a level of performance, integrity and quality which entitles them to the confidence of the educational community and the public they serve." Accreditation is seen as a uniquely American process for ensuring quality and protecting the "academy's" autonomy.<sup>9</sup> The two main functions of accreditation are the development of standards and the protection of institutional autonomy. Both have important implications for the use of accrediting agencies as part of the regulatory structure for proprietary schools.

### Background

Historically, accreditation developed out of the circumstances of the American system of higher education, in which no single point of control or central body existed to set educational standards. In the late 19th century, there was no consensus on the content of or the distinctions in content between high school and postsecondary institutions. Because the boundaries were unclear, the first voluntary association of postsecondary institutions was formed in 1895 to define the difference between high school and college and

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<sup>8</sup>Department of Education Organization Act, P.L. 86-88, section 103(b). One of the fundamental principles of the system of higher education in this country, the idea of academic freedom has been defined as: "the essential freedoms of a university to determine for itself on academic grounds who may teach, what may be taught, how it shall be taught and who may be admitted to study." See U.S. Supreme Court. *Sweezy v. New Hampshire*, 1967, Justices Harlan and Frankfurter concurring.

<sup>9</sup>The Balance Wheel for Accreditation. *Annual Directory*. Washington, Council on Postsecondary Accreditation, July 1987.

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to develop some guidelines and procedures for peer review, as a condition for membership.<sup>10</sup>

Over time, a number of such regional associations formed whose membership was contingent on accreditation. The associations established separate accrediting bodies or commissions that were responsible for developing standards and passing on the institutional qualifications for membership. By the early 1970s, all but a small percentage of the degree granting institutions of higher education were either accredited or applicants for accreditation. To some extent, regional accreditation had become so universal as to have lost any power of discriminating among traditional higher education institutions.<sup>11</sup>

During this same time period, proprietary schools had developed outside this framework of associations and accrediting commissions for traditional public and private nonprofit higher education institutions. Some proprietary schools were in existence in the 18th and 19th centuries, and many of the associations of these schools have lengthy histories. The regional postsecondary accrediting agencies had, however, generally excluded proprietary schools, using nonprofit status as a criterion for membership. After the U.S. Office of Education was authorized to publish a list of recognized accrediting agencies for purposes of eligibility for veterans' benefits, under the first G.I. bill, the national proprietary school associations began to set up their own accreditation commissions.<sup>12</sup>

Controversy over the exclusion of proprietary schools by the regional accrediting bodies came to a head with the Marjorie Webster case (1966-1970). Marjorie Webster was a for-profit junior college that had been in existence for a number of years and conferred associate degrees. It was licensed to operate in the District of Columbia but was not accredited although it had attempted to apply several times to the Middle States Accrediting Commission. In 1966, the college, whose students were unable to receive Federal aid because of its lack of accreditation finally sued the accrediting commission for denying the college the opportunity to apply for accreditation. Among other things, Marjorie Webster charged that the regional association acted as a combination in restraint of trade and had denied the school due process in rejecting its application attempts.

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<sup>10</sup>For a detailed history of accreditation in this country, see Harderood, Fred F. *Accreditation: History, Process, and Problems*. Washington, American Association for Higher Education, 1960.

<sup>11</sup>*Private Accreditation*, p. 10.

<sup>12</sup>The Association of Independent Colleges and Schools (AICS) was established in 1912. Its accrediting commission was set up in 1953. The National Home Study Council (NHSC) has existed since 1926, but the accrediting body was created in 1955.

During the course of the trial, the issue quickly became one of whether the profit motive was compatible with education. A number of distinguished economists such as Milton Friedman testified on behalf of the school, with higher education officials defending Middle States' exclusion of for-profit schools. The trial court judge ruled in favor of the college: "educational excellence is determined not by a method of financing but by the quality of the program." The appellate court reversed the decision, holding that the regional accrediting commission could legitimately use a nonprofit criterion for accreditation. While the school itself went out of business not long after, the proprietary sector lost the battle but won the war, as other regional commissions began to admit proprietary schools and a number of proprietary junior colleges joined existing proprietary accrediting groups.<sup>13</sup>

The Marjorie Webster case focused attention on the question of whether institutional accreditation had any direct relationship to quality. A number of critics concluded that accrediting agencies were too status quo, too hide-bound, and too protective of established institutions. They recommended that the Federal Government should stop relying on private accreditation in establishing eligibility for Federal funds. Opponents argued that this would remove the incentive for any school to be accredited, and would lead to direct Federal control of programs and institutional decisions.<sup>14</sup> The proposals were not adopted. Instead, the proprietary accrediting agencies gradually became accepted members of the accreditation community.

In 1975, the coordinating body of the regional accrediting commissions, the Federation of Regional Accrediting Commissions of Higher Education (FRACHE), and another organization representing colleges and universities, the National Council on Accreditation (NCA), merged to form COPA. COPA's membership was also expanded to include three of the national commissions that accredited most proprietary schools, the accrediting commissions of: the Association of Independent Colleges and Schools (AICS), which accredits primarily business schools, the National Association of Trade and Technical Schools (NATTS), and the National Home Study Council (NHSC), which accredits correspondence schools. COPA acts as an umbrella organization that supports research projects and publications on accreditation and aims to protect accrediting agencies from government interference.

In addition to AICS, NATTS, and the NHSC, three other accrediting bodies currently accredit significant numbers of proprietary schools. These are the National Accrediting Commission of Cosmetology Arts and Sciences (NACCAS), a group formed from a merger of two previous accrediting bodies, the Accrediting Commission for Continuing Education and Training (ACCET), and The Southern Association of Colleges and Schools, Commission on

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<sup>13</sup>The Supreme Court refused to review the Appeals Court decision in Dec. 1970. Koerner, James D. *The Case of Marjorie Webster. The Public Interest*, no. 20, Summer 1970. p. 40-64.

<sup>14</sup>*Private Accreditation.*

Occupational Educational Institutions (SACS/COEI).<sup>16</sup> Unlike institutions of higher education, however, not all proprietary schools are accredited. In the early 1970s, it was estimated that less than 30 percent of the existing schools were accredited. While it is likely that that proportion has increased considerably, there remain a number of such schools that are not accredited.<sup>16</sup>

### Elements of Accreditation

Kenneth Young, one of the founders of COPA who has written extensively about accreditation, has set out the six major purposes of accreditation: fostering excellence, encouraging improvement, assuring the public that institutions have appropriate objectives which they are capable of accomplishing, providing technical assistance, encouraging diversity of institutions and programs, and protecting institutions from encroachments on academic freedom. Accrediting organizations have generally avoided specific standards and quantitative checklists in developing criteria of quality and fostering excellence, and instead have relied on qualitative criteria and subjective judgments of institutional excellence. According to Young, the ultimate test of institutional accrediting is whether the accredited institution is acceptable to other accredited institutions.<sup>17</sup>

The actual process of accreditation, in contrast to particular standards, is very uniform, regardless of which accrediting agency is involved. In part this is due to the influence of COPA and its coordination of the accrediting community and its procedures. In part, it also results from the fact that the criteria the ED uses in listing recognized accrediting agencies focus on the procedures agencies use and not the content of the standards they set.<sup>18</sup> In keeping with the primary goals of peer review and self-improvement, the key element in accreditation is self-evaluation by the institution. The standard components of the accreditation process include a self-study, an on-site evaluation by a team of peers, and a final decision to grant or deny

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<sup>16</sup>SACS/COEI was formed in Dec. 1971, and was included in the original COPA membership because it is a subunit of the regional association. Neither NACCAS nor ACCET are COPA members. In referring to the accrediting agencies and their staffs throughout the paper, we use the association acronyms, but readers should remember that the accrediting commissions have separate budgets and professional staff.

<sup>17</sup>See U.S. Library of Congress. Congressional Research Service. *Proprietary Schools: A Description of Schools and Students*. CRS Report for Congress, by Richard Apling. Washington, 1980, for a discussion of the difficulties in determining the total number of such schools. (Hereafter cited as *Proprietary Schools*) The estimate of 30 percent is from COPA, quoted in Young, Kenneth. *Accrediting Organizations: You Can't Tell the Players Without a Program*. *Career Training*, v. 3, no. 3, Mar. 1987. p. 8-11.

<sup>18</sup>Young, Kenneth E., ed. *Understanding Accreditation: Contemporary Perspectives on Issues and Practices in Evaluating Educational Quality*. San Francisco, Jossey-Bass Inc., 1983.

<sup>19</sup>24 C.F.R., Part 602.



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accreditation by the full accrediting commission whose members usually include public representatives as well as representatives or owners of member schools.<sup>19</sup>

Self-studies by schools are designed to measure progress according to previously accepted objectives, also defined by the schools. The resulting self-study report is used as the basis for evaluation by a site-visit team that assesses the school in light of the self-study, the team's expertise, and external perspectives. The team prepares an evaluation report that is reviewed by the institution for factual accuracy. The original study, report, and response then go to the accrediting commission which uses these as a basis for action regarding the status of a school. Negative decisions are appealable, usually to a specially constituted committee or review board.

Accrediting commissions tend to meet two to four times a year and vary in the number of applications on which decisions need to be made at any one meeting. Accreditation is generally granted for a specific term, which is a maximum of 5 to 6 years among the proprietary school accrediting agencies. Accrediting bodies can review member institutions at any time "for cause" and require prior approval or review of substantive changes.

#### Limits to the Accreditation Process

There are a number of limits to the accreditation process as a means to insure consistently high standards at schools. Some of these can occur in the application of individual steps in the process. For example, standards may be too vague or limited to evaluate institutional quality, self-studies may lack objective data, review teams may not be expert or their time may be too short, evaluation reports may ignore deficiencies, or accreditation commissions may be too overworked to carefully review applications. In short, the process may not live up to its intentions. COPA, itself, has acknowledged that "accreditation falls short of providing the quality assurance that our nation deserves . . . far too often the participants in the accreditation process focus their efforts on minimal barely adequate standards."<sup>20</sup>

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<sup>19</sup>*The Accreditation Plan: Policies and Procedures*, Jan. 1988, and *Standards for Accreditation*, Aug. 1988. Richmond, ACCT. *The Policies and Standards of the Commission on Occupational Education Institutions*, 1990 Edition, Decatur, Georgia, SACB. *Home Study School Accreditation: Policies, Procedures and Standards*. Washington, Accrediting Commission of NHSC, 1989. *Accreditation Criteria: Policies, Procedures and Standards*. Washington, Accreditation Commission of AICS, 1985 with supplements. *Standards of Accreditation, and The Accreditation Process*, Washington, Accrediting Commission of NATTS, n.d. *NACCAS Standards and Criteria*, Feb. 1988 and *Rules of Practice and Procedure*, Mar. 15, 1988, Washington, NACCAS. All of the above commissions also send their member schools interpretive memos and new policies and standards on specific issues from time to time.

<sup>20</sup>Quoted in Manning, Thurston. *Are the Secretary's Intentions Honorable? Academe*. July-Aug. 1988. p. 12-15.

Other limits of accreditation are more fundamentally linked to its nature. It is important to remember that accrediting is undertaken in the interests of, and is financed by accredited schools. Public service and consumer protection are secondary interests. Accreditation is not a process by which institutions are measured against clear objective standards of quality. Although the public often assumes that accreditation implies some warranty or "good housekeeping seal of approval" that protects the educational consumer or vouches for the financial and educational integrity of an institution, accrediting agencies make no such claims. Accreditation cycles are too long to be able to vouch for the current status of schools. While annual reports may be required, and accrediting agency staff may investigate complaints, accrediting bodies generally do not have the resources to closely monitor accredited schools. Since the outlook of the accreditors is collegial and voluntary, they do not see policing or enforcement of standards as part of their mission. The only serious sanction such bodies can invoke is withdrawal of accreditation, so when problem schools come to their attention, the usual approach is exhortation.<sup>21</sup>

Ironically, perhaps because of the greater spotlight focused on alleged abuses in the proprietary sector, or a general defensiveness that comes from being looked down upon by the traditional higher education establishment, the proprietary accrediting bodies have suffered from these limits somewhat less than the regional accrediting commissions. The proprietary school accrediting organizations are more likely to have specific, even quantitative, standards, to require regular annual reports from all members, and to investigate complaints and any changes in specific indicators of school quality or integrity. On the other hand, because of the greater financial stakes in withdrawal of accreditation, they have found it difficult to apply that ultimate sanction.<sup>22</sup> Their basic ethos, however, remains the same as the regional commissions--the focus is on peer review and self-improvement.<sup>23</sup>

## THE STATE REGULATORY ROLE

There is no consistent State role in regulating proprietary schools, since States developed rules with a variety of different purposes and

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<sup>21</sup>Of course, problems that are encountered in initial accreditation can be resolved by simply rejecting a school's application.

<sup>22</sup>One problem in decisions to withdraw accreditation has been the threat of lawsuit. A tactic of rejected schools is to sue individual members of evaluation teams. While not considered a serious problem by all of the accrediting agencies, some have suggested that this is both a deterrent to voluntary service and to the enforcement of standards and have proposed legislative remedies to protect individuals from liability for damages. Schools whose accreditation has been withdrawn or denied have also sued charging unfair restraint of trade. In general, the accrediting agencies have to anticipate and budget for these legal efforts to overturn their decisions.

<sup>23</sup>This assessment is based on review of the accrediting agency documents cited above, and conversations with accrediting staff.

perspectives. Some of these regulations were related to the rules governing the traditional sector of higher education, while others were patterned after State rules for operating businesses. Technically, all States do not license proprietary schools; however all 50 States do have some identification, registration, or certification procedure with which schools must comply in order to obtain legal authorization to do business within a State. States however, differ greatly on the nature of this procedure, the extent of the requirements imposed on schools, as well as on the verification of information or oversight of licensed schools. In a few States, schools need only fill out a simple form and pay a fee to be authorized to operate, while others require elaborate applications, and on-site investigation by State staff.<sup>24</sup>

### Background

State regulation of the proprietary sector relies primarily on laws requiring proprietary schools to register or obtain a license in order to operate within their borders. The impetus for these rules varied from State to State, sometimes growing out of business registration procedures generally, and sometimes initiated in relation to eligibility for State programs of student aid. Depending on the State and the type of training offered, several different agencies may be involved in the licensing and oversight of proprietary schools. For example, in Texas, there is a separate board that oversees cosmetology schools, and another agency that licenses trade and technical schools. The public safety or traffic bureau registers truck driving schools, while the State education agency is responsible for authorizing schools that grant degrees.<sup>25</sup> In States with multiple licensing or authorizing agencies, the various regulatory watchdogs may have little contact or coordination with each other. In most cases, agencies regulating proprietary schools are also likely to be completely excluded from any participation in higher education coordination or planning in the State.<sup>26</sup>

The activities of State licensing bureaus are typically funded through fees which the schools pay to be licensed or registered. As a result the very agencies with the responsibility for monitoring and enforcement of regulations governing proprietary schools are dependent on those same schools for the

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<sup>24</sup>Conversation with Coordinating Secretary, National Association of State Administrators and Supervisors of Private Schools (NASASPS), Feb. 1990. There are no published surveys of the laws and regulations governing proprietary schools in all the States. NASASPS is the association that represents these State regulatory units.

<sup>25</sup>Texas recently (1986) brought truck driving schools within the purview of the same agency that regulates other trade and technical schools, but cosmetology schools remain under another authority. Pennsylvania revised its statute in 1987, at which time previously independently operating licensing agencies were combined into a single board. Cosmetology schools are those most likely to be authorized under a separate authority in many States.

<sup>26</sup>Chaloux, Bruce N. *State Oversight of the Private and Proprietary Sector*. Paper, SHEEO, Apr. 1985.

agency budget. This is not an ideal situation from the point of view of disinterested, strict enforcement of regulations.<sup>27</sup>

Another source of authority for State regulation of proprietary schools is the programs of student aid established by the State. In 36 States, proprietary school students are eligible for State programs of financial aid, and thus any State regulations applying to schools participating in those programs would also apply to proprietary schools. Since the focus of this paper is the regulatory structure for participation in Federal student aid programs, no attempt was made to review State student aid program regulations.<sup>28</sup>

In addition, all States have enacted the Uniform Commercial Code, which has a number of explicit protections for consumers from abusive practices in recruitment and sales, theoretically including abuses in the education sector. Consumer protection statutes per se tend to be complaint driven, and regardless of whether provisions have been enacted specifically including proprietary schools in their coverage, enforcement of such statutes on an ad hoc, case by case basis limits their role in regulation of the proprietary school sector. The various school licensing bureaus, registration or certification agencies are the main locus of State regulatory efforts.

### Elements of Regulation

A theoretical distinction is usually made between accreditation as an evaluation of educational quality and State licensing as an assessment of the viability of the institution to do business. In practice, States use a number of different perspectives in the regulatory process. Many States approach regulation from the same perspective as accreditors. A State agency may have the authority to establish minimum standards for the qualifications of full-time faculty, the amount of library materials, and instructional space, and evaluate institutions on these criteria. Another common focus is on "honest practice." A State agency may have authority to review the reliability and accuracy of published materials and advertising, to regulate refund policies, and to require other consumer protection measures. Many States use elements of both approaches. Some focus more on minimum standards for degree-granting proprietary schools and on the application of truth in advertising rules for the nondegree-granting schools.<sup>29</sup>

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<sup>27</sup>Ibid.

<sup>28</sup>See National Association of State Scholarship and Grant Programs. *21st Annual Survey Report, 1989-1990 Academic Year*. Harrisburg, Pennsylvania Higher Education Assistance Agency, Jan. 1990.

<sup>29</sup>Chaloux, *State Oversight of the Private and Proprietary Sector*.

The Education Commission of the States developed model State legislation for regulation of proprietary schools in 1971 that combined minimum standards and consumer protection concerns. The legislation was also supported by the National Association of State Administrators and Supervisors of Private Schools in congressional testimony in 1974, and has since been used as a resource document by many States in developing or revising their laws and regulations. The following areas were suggested for minimum standards at the State level: application information, catalog criteria, admissions policies, instructional materials, recordkeeping criteria, agent/salesman criteria, placement rates, policies for cancellation and refund of tuition and fees, equipment/facilities, faculty criteria, administrative staff support, advertising/recruitment, and financial stability. At the same time, the model legislation included a provision to allow States to waive any independent requirements for licensure when a school was already accredited by a private accrediting commission.<sup>30</sup>

### Limits

Regulation of proprietary schools at the State level is limited in what it can accomplish. The lack of uniformity in State statutes and regulations limits the reliance that can be placed on States for insuring Federal objectives in the use of student aid funds. States vary too much in the substantive areas covered, in the strictness of the standards imposed, and in the extent to which the applicable statutes are actually implemented and enforced. Perhaps, for these reasons, the Federal Government has never placed a great deal of emphasis on this component of the triad.<sup>31</sup>

In a 1976 report that accompanied a proposed trade rule for proprietary schools, the Federal Trade Commission (FTC) concluded that State oversight of proprietary schools was inadequate both because there were gaps in State laws and regulations that permitted deceptive or fraudulent practices to continue and more importantly because the laws that did exist were seldom adequately enforced.<sup>32</sup>

A number of more recent reports and comments suggest that the situation has not changed in the intervening years. A 1979 General

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<sup>30</sup>*Model State Legislation*. Report of the Task Force on Model State Legislation for Approval of Postsecondary Educational Institutions and Authorization to Grant Degrees. Denver, Education Commission of the States, 1973. U.S. Congress. House. Committee on Education and Labor. Special Subcommittee on Education. *Hearings on Institutional Eligibility*, 1974. Washington, GPO, 1974.

<sup>31</sup>The Carter Administration proposed abolishing reliance on accreditation in hopes of forcing States into a more rigorous regulatory posture. The suggestion was overwhelmingly opposed by every sector of the postsecondary education community.

<sup>32</sup>Dixon, W. D. *Proposed Trade Regulation Rule: Advertising, Disclosure, Cooling-off and Refund Requirements for Proprietary Vocational and Home Study Schools*. Washington, Report of the Presiding Officer, Federal Trade Commission, 1976.

Accounting Office report suggested that the lack of oversight by State agencies was a major problem either because accredited schools were exempt from review or because States had inadequate funds to review and monitor schools. More recently, in 1988, then Secretary of Education William Bennett wrote to the Governors of the 50 States to urge them to "undertake a thorough review and evaluation of all your State's laws and regulations governing proprietary school licensing and operations. See if they need amendment, strengthening or more rigorous enforcement." At the same time, the American Council on Education Center for Adult Learning and Education Credentials recommended that States review laws on authorization and approval of educational institutions and strengthen and enforce them.<sup>83</sup> Articles exposing abuses in the proprietary sector and the failure of State regulatory agencies to either prevent or control these abuses have been published in recent years in a number of major metropolitan newspapers.<sup>84</sup>

Four of the six States with the largest proportions of proprietary school students or schools nationwide, Texas, California, Ohio, and Illinois, have recently amended their proprietary school law, and New York is currently debating changes to its statutes. A number of other States have also recently revised or are in the process of revising and strengthening their statutes and regulations governing the proprietary sector. These State reform efforts have focused on raising fees to strengthen monitoring and enforcement staff, establishing some tuition-reimbursement plan, new requirements for schools to submit financial information, and setting standards for placement and program completion rates.<sup>85</sup>

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<sup>83</sup>U.S. General Accounting Office. *What Assurance Does Office of Education's Eligibility Process Provide?* Report to the Congress. HRD-78-130, Jan. 17, 1979. Washington, 1979. *Protecting the Integrity of California Degrees: The Role of California's Private Postsecondary Education Act of 1977 in Educational Quality Control.* Report 88-16, Apr. 1988. Sacramento, California Postsecondary Education Commission, 1988. p. 22.

<sup>84</sup>These include the *St. Petersburg Times*, (Fla.) Apr. 30-31, 1988; *Newsday* (Long Island, N.Y.) June 22, 1988; the *Hartford Courant* (Conn.), Nov. 8, 1987; the *Arizona Republic* (Phoenix), Dec. 13, 1987; the *Chicago Sun-Times*, Jan. 3-5, 1988; the *Cleveland Plain Dealer*, Apr. 24-27, 1988; the *Los Angeles Times*, June 18-17, 1988; the *Minneapolis Star Tribune*, Apr. 27, 1988; and the *Houston Chronicle*, May 26, 27, and June 1, 1988.

<sup>85</sup>See Caga, Mary Crystal. *Tougher Regulations for For-Profit Trade Schools Gain Support in a Growing Number of States.* *The Chronicle of Higher Education*, Apr. 25, 1990. p. A22, 24, 25.

## THE FEDERAL ROLE

### Department of Education Regulations

U.S. Department of Education regulation of postsecondary education institutions includes several steps. These regulations apply to all postsecondary institutions that participate in title IV student financial assistance programs and not just to proprietary schools. Although the regulations recognize different types of institutions, until recently different requirements for participation had not been imposed by type of institution.<sup>66</sup>

First, an institution must establish "eligibility" under the Higher Education Act, which qualifies it to apply for participation in student financial assistance programs. Eligible institutions must then be certified as meeting certain financial and administrative "standards" for participation in title IV programs. Once eligibility and certification requirements have been satisfied, the school enters into specific program participation agreements for each of the individual title IV programs. These participation agreements require the institution to abide by the specific regulations for that program and otherwise refer to the criteria established under the institutional eligibility and certification requirements.<sup>67</sup>

The two main criteria for eligibility are: 1) legal authorization by the State in which a school is located, and 2) accreditation by a nationally recognized accrediting agency or association. The determination of eligibility is effectively delegated to nonfederal entities—State licensing authorities and the accrediting organizations. The Secretary of Education is authorized to publish periodically a list of accreditation agencies according to certain criteria. There is no really comparable process for Department of Education listing or recognition of State agencies that legally authorize proprietary schools' operations. Thus, ED's only influence on eligibility determination is indirectly through the process of recognition of accrediting agencies.<sup>68</sup>

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<sup>66</sup>New default regulations under the Guaranteed Student Loan program, 34 C.F.R. 668.15 and 668.44, impose requirements on schools with high default rates and require certain disclosures for students in vocational programs but do not specifically single out proprietary schools. Vocational schools, whether profit or nonprofit, have always been subject to a 2-year rule for eligibility that was not imposed on other postsecondary institutions. However, since the accrediting agencies also require schools to be in operation for 2 years, it is not a major issue for proprietary schools.

<sup>67</sup>See 34 C.F.R. 600, 668, 673-676, 682, 690, 692.

<sup>68</sup>The Secretary does establish criteria and publish a list of recognized State agencies that authorize public vocational institutions. This provision was added to the law and regulations because public vocational schools have no national accreditation body. See 34 C.F.R., Section 603.

### ***Recognition of Accrediting Agencies***

Federal recognition of accrediting bodies was first established under the Veterans Readjustment Assistance Act of 1952 which authorized the Commissioner of Education to "publish a list of nationally recognized accrediting agencies and associations which he determines to be reliable authorities as to the quality of training offered by an educational institution . . . ."<sup>39</sup> The impetus for this authority and similar authorization in other legislation such as title IV was the need for a reliable measure of educational quality that avoided any appearance of Federal interference in educational decisions by schools. The original criteria for recognition of accrediting agencies, written in 1952, were not revised until 1969, at which time a provision was added for review of agency recognition every 4 years. Since then the criteria have been revised twice, in 1975 and again in 1988.

Each attempt at revision of the criteria for recognition has aroused the concern of the higher education establishment that any expansion in or greater specificity in such criteria could be a step towards Government interference with curricula and academic freedom. On the other hand, a Carter Administration proposal to drop the accreditation recognition process also aroused opposition from the higher education community that feared the alternative would be more stringent eligibility requirements imposed directly on individual schools by the Federal Government.

At Senate hearings in 1986, then Secretary of Education Bennett announced a review of the criteria for recognition of accrediting agencies with a view to revising them to focus more on results and effectiveness and less on the process of accreditation. In his testimony, Secretary Bennett noted problems of schools graduating large numbers of students who failed relevant State licensing exams or could not satisfy minimum standards in their field and gain employment. His comments were not limited to proprietary schools but included programs such as pharmacy and teacher education in traditional institutions of higher education.<sup>40</sup>

In 1987, the Administration proposed new criteria for recognition that required accrediting agencies to have specific standards for program effectiveness and for disclosure of consumer information in order to be recognized by the Secretary. The higher education community and the accreditation community opposed the new criteria. They argued that the Secretary could require accrediting agencies to have a standard for program

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<sup>39</sup>For a good description of the history of the Federal role in recognizing accrediting agencies, see Kaplan, William A., and J. Philip Hunter. *The Legal Status of the Educational Accrediting Agency: Problems in Judicial Supervision and Governmental Regulation*. *Cornell Law Quarterly*, Fall 1966. p. 104-131

<sup>40</sup>U.S. Congress. Senate. Committee on Labor and Human Resources. Subcommittee on Education, Arts and Humanities. *Quality in Higher Education*. Hearings, 99th Cong., 2d Sess., Jan. 28, 1986. Washington, GPO, 1986. p. 8-12.



effectiveness or consumer protection, but could not prescribe its content. To do so would exceed the Secretary's authority to recognize and constitute an unwarranted interference in educational programming. To quote from an article by the head of COPA, "If the Secretary can set accreditation standards for consumer protection, cannot the Secretary set accreditation standards in other areas, such as faculty compensation? . . . . In Washington today the possibility is alive that the power of the Federal purse might circumvent the historic prohibition of Federal interference in education."<sup>41</sup>

As a result of such criticism and concerns, the final revised criteria, published in 1988, only require accrediting agencies to include a standard for evaluating student achievement without specifying how it should be measured and do not specify the content of consumer information disclosure requirements. The main changes from previous versions include specifying a number of program quality areas in which accrediting agencies should have standards, such as admissions criteria for "ability to benefit" students, and requiring that accrediting agencies take into account adverse decisions of other such agencies when considering accreditation.<sup>42</sup>

For the most part, the current requirements for Federal recognition of accrediting agencies continue to be more procedural than substantive. To be recognized by the Secretary, an agency must have sufficient experience in the programs for which it seeks to be the recognized accrediting body, be national or regional in scope, have sufficient resources to carry out its functions, be nationally recognized as the appropriate accrediting body, have written documents describing its standards and procedures, adhere to an accreditation process that includes self-analysis, on-site review, and reevaluation at reasonable intervals, and include information on educational effectiveness, the adequacy and accuracy of public disclosures, and the decisions of other recognized accrediting agencies as part of its criteria.

Accrediting agencies not previously recognized make application furnishing evidence of compliance with the above criteria. These written materials are reviewed by ED staff assigned to the National Advisory Committee on Accreditation and Institutional Eligibility (which has statutory authority to recommend whether accrediting agencies should be recognized by the Secretary) along with any comments from third parties solicited by a notice in the *Federal Register*. Public hearings are held on the application and the Advisory Committee prepares a recommendation to the Secretary on recognition. Recognition is for 4 years, at which time the accrediting agency reapplies following the above process.

Between 1952 and 1988, the number of recognized accrediting bodies has grown from 28 to 72, although the main growth has been in the number of

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<sup>41</sup>Manning, *Are the Secretary's Intentions Honorable?*, p. 12-14.

<sup>42</sup>See 34 C.F.R. 602.

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special program accrediting bodies, not in proprietary school accrediting agencies. The two additions to the list that accredit proprietary schools are ACCET and SACS/COEI.

### *Limits of Recognition Process*

There are a number of weaknesses in the recognition process as a device for Federal regulation of proprietary schools. Since 1952, no major institutional accrediting agency has ever been dropped from the Secretary's list. In a recent report, the ED Office of the Inspector General has charged that ED staff have been lax in their review of accrediting agencies before initial recognition and renewal.<sup>49</sup> If accrediting agencies get sloppy in their application of standards and allow poor quality schools to receive or maintain their accreditation, the Secretary's only threat is to drop the agency from the list of recognized agencies. This would effectively mean eliminating all the schools accredited by that agency, good as well as bad, from eligibility for participation in student financial assistance programs. One proposal that has been suggested to make it easier for the Department to drop agencies from the list is to give schools accredited by an agency that is dropped 1 year of continued eligibility. During that time, they could seek accreditation from another agency that remains on the list.

In addition to the lack of oversight and sanctions to enforce the standards for recognition, the inclusiveness of the recognition process also limits its utility in dealing with regulatory issues concerning proprietary schools. If ED believes that problems exist or different standards should apply in the accreditation of proprietary schools, there is not explicit statutory authority for separate standards. Although there is no statutory prohibition against separate criteria, the current recognition process applies the same criteria to all accrediting agencies for institutions of postsecondary education, not just to proprietary school accrediting bodies. This would inevitably lead to opposition to the imposition of new requirements from the traditional higher education community.

### *Eligibility and Certification*

Before a proprietary school can participate in student financial assistance programs, it must go through the eligibility and certification processes. To establish eligibility, ED's Division of Eligibility and Certification reviews documents provided by the school to determine whether a school has met the State authorization and the accreditation requirements, whether it has been

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<sup>49</sup>U.S. Department of Education. Office of the Inspector General. *Issues Noted to Date in our Audits of the Postsecondary Accreditation, Institutional Eligibility and Certification Processes*. Memorandum, Feb. 14, 1990. (Hereafter cited as *Issues Noted*) See also, ED Fails to Regulate Accrediting Agencies, IG Says. *Education Daily*, Apr. 28, 1990.

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in operation for 2 years, and whether its programs meet the minimum course length requirements.<sup>44</sup> Eligibility must be renewed every 4 years.

Eligible institutions must then be certified as meeting certain regulatory requirements regarding financial responsibility and administrative capability. The financial responsibility standards are supposed to indicate that an institution can pay its bills, is financially sound, and that the owners and/or employees have not previously been convicted of defrauding the Federal Government. The administrative capability requirements are also basic and concern the adequacy of personnel resources to administer title IV programs and the maintenance of student records. After reviewing the application and documents submitted, department staff determine whether a school meets these standards and certify it for participation in title IV programs. Schools about which there is concern about their financial capability may be placed in a special reporting category. Currently, 7,945 institutions are eligible and certified to participate in title IV programs, of which approximately 50 percent, or 3,600 are proprietary schools.

Finally, schools must sign program participation agreements with the Department for each of the title IV programs. These agreements generally refer back to the general standards for participation discussed above as well as any administrative requirements specific to a particular program.

In 1989, the Department published new rules that amended the administrative capability requirements and added new requirements for schools with high default rates on guaranteed student loans, as well as expanded the student disclosure requirements under the GSL program regulations.<sup>45</sup>

### *Limits*

Until 1972 for the GSL program, and 1976 for all other title IV programs, schools could not be dropped from program eligibility. In 1972, legislation established Federal authority to limit, suspend or terminate the eligibility of institutions found to be in violation of Federal program standards for the GSL program and this authority was expanded in 1976 to cover all other title IV programs. Authority for "emergency" suspension of aid eligibility was established in the FY 1990 reconciliation legislation, P.L. 101-239, after the department had been legally challenged for lack of statutory authority to invoke emergency suspensions. Between 1985 and March 1990,

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<sup>44</sup>As part of the definition of eligible institutions, a vocational school must offer a program that is a minimum of 300 clock hours.

<sup>45</sup>See U.S. Library of Congress. Congressional Research Service. *The U.S. Department of Education's Student Loan Default Reduction Initiative: Background and Analysis*. CRS Report for Congress No. 99-454 EPW, by Charlotte J. Franck. Washington, 1999. (Hereafter cited as *Reduction Initiative*)

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the Department has terminated 35 schools from eligibility, the vast majority of which were proprietary schools.

### *Oversight and Monitoring*

The Department of Education conducts a number of different monitoring activities designed to insure compliance with the eligibility and program criteria for institutional participation in title IV programs. These include program reviews, the biennial independent audits required of all recipients of Federal funds, and audits or investigations initiated by the ED Inspector General's Office.

The Department of Education's Office of Program Review and the regional offices conduct program reviews onsite, lasting approximately 1 week. These reviews are supposed to occur every 3 years and examine an institution's administrative capabilities, program compliance, and accounting practices in order to assess stewardship of Federal funds. Program reviews focus primarily on student financial aid administration, rather than on broader questions of institutional policy such as recruitment, curriculum, and placement efforts. Reviewers attempt to verify compliance with various statutory requirements of the title IV programs, including whether students are actually eligible for aid, whether ability to benefit was correctly assessed, whether aided students continued to make satisfactory progress required, whether appropriate aid disbursement procedures were followed, as well as whether refunds were accurate and timely.

Given the large number of eligible institutions and resource limitations in personnel and funds, it is not surprising that there have been persistent concerns that these review processes are not sufficient to assure compliance. Between 1982 and 1989, ED conducted an average of approximately 600 reviews annually, about one quarter of the number that would be needed each year to ensure that every school was reviewed every 3 years.<sup>46</sup> Recent reports on abuses in the proprietary sector have noted that regional office staffing is inadequate to handle the program review process. In region II (New York, New Jersey, Puerto Rico, Virgin Islands), there are four institutional review specialists to cover 850 postsecondary institutions; region IV (Alabama, Florida, Georgia, Kentucky, Mississippi, North Carolina, South Carolina, Tennessee) has 13 program reviewers responsible for covering 1,100 institutions in eight States.<sup>47</sup>

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<sup>46</sup>Information supplied by ED's Division of Audit and Program Review.

<sup>47</sup>U.S. General Accounting Office. *Many Proprietary Schools Do Not Comply With Department of Education's Pell Grant Program Requirements*. GAO/HRD 84-17, Aug. 30, 1984. Washington, 1984. (Hereafter cited as GAO/HRD-84-17) *Issues Noted*. Benzer, Neale. *Unfair at Any Price: Welfare Recipients at New York Proprietary Schools*. New York, Interface, 1989. See also U.S. Congress. Senate. Permanent Subcommittee on Investigations. Staff Statement, *Hearings on Abuses in Federal Student Aid Programs*, Feb. 20, 1990.

Another oversight mechanism is the Student Financial Assistance Program audit reports prepared by independent public accountants that schools are required to submit every 2 years. While focusing on the fiscal integrity of programs, the auditors are also supposed to address overall compliance with title IV requirements. The Inspector General's Office recently found a number of weaknesses in the audit process and in an effort to clarify and strengthen the focus on program compliance information, a new audit guide was recently released.<sup>45</sup>

Finally, ED's Office of the Inspector General (OIG) conducts audits or investigations (if it suspects criminal violations) as a result of its own reviews of school information and in response to complaints. For 1989 and 1990, the Inspector General has estimated that approximately 70 percent of the office's resources have been devoted to the student financial aid area. The average liability of the 38 audits conducted by the OIG during 1989 and 1990 is approximately \$1.5 million. Between 1984 and 1990, proprietary schools represented 54 percent of the total audit liabilities from both the independent audits and those of the Inspector General.<sup>46</sup>

Institutions that participate in the GSL program are also subject to monitoring and oversight by the guaranty agencies that insure these student loans. Guaranty agencies share with the Federal Government a responsibility to ensure that schools are administering the GSL program correctly. Guaranty agencies are required to conduct biennial program reviews of the schools with the largest loan volume guaranteed by their agency and those that have default rates over 20 percent. Guaranty agencies also have authority to initiate limitation, suspension and termination proceedings against schools based on these reviews. In addition, guaranty agencies in some States, such as Texas, have initiated additional monitoring requirements based on concerns over defaults or other fiscal mismanagement relating specifically to the loan program.

### Other Agencies

Federal regulation in postsecondary education involves a number of agencies in addition to the ED. For example, the Federal Aviation Administration certifies airline maintenance technician schools, and the Federal Bureau of Investigation investigates mail fraud when aggrieved correspondence students lodge complaints. The agency with a role most comparable to the Department of Education is the Veterans' Administration (VA) which regulates schools that veterans may use their benefits to attend.

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<sup>45</sup>U.S. Department of Education. Office of Inspector General. Office of Audit. *AUDIT GUIDE: Audit of Student Financial Assistance Programs*. Mar. 1990.

<sup>46</sup>U.S. Department of Education. Office of Student Financial Assistance. *Results of Program Reviews, Audits and Other Compliance Activities*. Presentation for the staff of the Division of Audit and Program Review, May 30, 1990.

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The VA has its own law and regulations and a system of State approval agencies that approve postsecondary programs (not schools) and conduct annual reviews of postsecondary institutions. The system has similarities and differences with Department of Education regulations and some proprietary institutions participate in both. Where the VA approach has been suggested as an alternative to current regulations, this will be noted in the chapters that discuss specific issues.<sup>60</sup>

The other Federal agency with a role in proprietary school regulation is the Federal Trade Commission (FTC). Its main role is to protect consumers, in this case, students attending proprietary schools, regardless of whether they participate in Federal student aid programs. The FTC's role is somewhat analogous to consumer affairs offices in some States that also may pursue complaints brought by proprietary school students. The FTC is limited to posthoc authority to investigate complaints against individual schools. Currently, the FTC investigates deceptive trade practices in proprietary schools and issues cease and desist orders against individual institutions. Action is taken against schools that divert substantial trade unfairly from competing schools through misrepresentation of status, programs, facilities, fees, or the employment opportunities and earnings of graduates. The number of individual cases the agency has brought against proprietary schools declined in the 1980s as the agency focused its declining resources on unfair and deceptive business practices in other economic sectors that involve larger sums of money and numbers of consumers.<sup>61</sup>

In 1978, the FTC had proposed to regulate the proprietary school sector more broadly through the issuance of a general trade rule. The rule which was proposed to go into effect in 1980 would have required hour for hour pro rata refund policies, a 14-day cooling off period for prospective enrollees, and affirmative disclosure of program dropout rates for all proprietary vocational schools. In addition, schools advertising that their programs resulted in employment outcomes would have been required to affirmatively disclose their job-related placement rates. The rule was immediately challenged in court (*Katherine Gibbs School v. the Federal Trade Commission*) and was returned to the Commission for revision by the Second Circuit Court of Appeals in 1980. The court ruled that the rule violated the Commission's statutory authority and proposed remedies that were not related to the unfair practices described.<sup>62</sup> Between 1980 and 1988, Commission staff attempted to

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<sup>60</sup>For a recent assessment of the regulatory structure for veterans' education benefits, see U.S. Congress. Committee on Veterans' Affairs. *Veterans' Education Policy*. A report prepared by the Commission to Assess Veterans' Education Policy. Joint Committee Print, Sept. 22, 1988. Washington, GPO, 1988. (Hereafter cited as *Veterans' Education Policy*)

<sup>61</sup>Interview with FTC staff, 1989.

<sup>62</sup>*Katherine Gibbs School, et al v. Federal Trade Commission*, 613 F. 2d 658 (1979).

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develop revised regulations dealing primarily with refunds and disclosures, but Commission consideration was repeatedly postponed.

In 1988, the Commission voted to terminate the proposed rulemaking. In the notice announcing the decision, the Commission stated that the evidence supporting a general rule was out of date and more importantly that the evidence in the record did not substantiate the need for the remedies proposed. In addition, the Commission noted that the ED was considering new regulations for the Guaranteed Student Loan (GSL) program that would cover some of the same issues as those in the rule. Presumably, this was a reference to the regulations which have now been issued as part of the ED's new default initiative.<sup>62</sup>

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<sup>62</sup>*Federal Register*, v. 53, Aug. 5, 1988. p. 20482-20483. The default regulations were published in the *Federal Register*, v. 54, June 5, 1989. p. 24114-24127. On the default regulations, see also *CRS Reduction Initiative*.

## CHAPTER 3

### PROGRAM QUALITY ISSUES

- The current regulatory structure views dropout rates as an indicator of potential problems rather than as an absolute standard for school eligibility.
- Given current difficulties with defining and verifying placement rates, the imposition of a minimum standard may be unrealistic.
- None of the agencies in the current regulatory structure look at the length of a program in relation to its declared objectives.
- The current regulatory structure does not attempt to address cost/benefit issues for particular vocational training programs.

Concerns about the quality and effectiveness of proprietary school vocational programs are a function both of the nature of the programs offered and of the types of students attracted to such schools. Many of these programs offer short-term training of a year or less specifically designed to prepare students for particular jobs. Because of the close relationship between program content and the job market, program quality requires continual change and adjustment. In addition, proprietary schools attract lower-achieving students, including high school dropouts. These potential proprietary school students may be less likely to have access to counseling and information on postsecondary choices, and may be relatively unsophisticated about the connection between higher education and the job market. Defining and measuring program quality is not a simple task; the regulatory structure can focus on educational inputs, student outcomes, specific characteristics of programs, or questions of costs in relation to benefits.

#### BACKGROUND

One of the main Federal policy goals for postsecondary student aid is providing access to a postsecondary education regardless of financial resources. Students receive financial assistance to attend their choice of postsecondary school. This goal presupposes that students will use the financial assistance to attend programs of at least minimum quality. Otherwise, there would be no benefit from access and choice.

To assist students in finding programs of at least minimum quality, the Federal Government determines which institutions are eligible to participate in student financial aid programs. Eligibility however does not measure program quality directly. As previously discussed, the Federal Government



has scrupulously avoided any attempts to define standards of quality for fear of being accused of interference in curriculum or educational decisionmaking which it is specifically prohibited by statute from doing.<sup>64</sup> Instead, the Federal Government has relied on accreditation and State licensing to insure that minimum standards of quality are met in postsecondary institutions whose students are eligible for Federal assistance.

Traditionally, the measures of quality used by accrediting agencies and State licensing bureaus have focused on educational inputs. For example, the Accrediting Commission of AICS has a standard which requires faculty preparation that is "academically and experientially appropriate to the subject matter taught. Faculty members shall be competent to teach the subject matter offered and shall have reasonable latitude in their choice of teaching methods."<sup>65</sup> Accrediting agencies tend to rely on the subjective judgments of peer review teams to determine whether a school meets their standards.

In addition to standards relating to the credentials of faculty, and the adequacy of instructional materials and equipment, proprietary accrediting agencies may specify required areas of program content (for single focus groups such as NACCAS) or require that programs be carefully planned, appropriate to the occupational objective, and continuously evaluated. Four of the accrediting bodies that serve the proprietary sector (AICS, NACCAS, NHSC, and ACCET) use specific program specialists on the site visit teams to evaluate program content and quality. NATTS and COEI do not use program specialists.

State laws and regulations licensing proprietary schools tend to focus more on objective or quantifiable standards--minimum square feet of space per student, or minimum educational qualifications of faculty. Content and enforcement of these standards varies enormously among the States. In California, for example, until recently, accredited schools were automatically approved without review for conformity with State standards. The California office responsible for private school regulation argued that it was unable to act against schools with known poor quality programs unless the relevant accrediting agency took action first. In 1988, a State law was passed authorizing the California Student Aid Commission to investigate schools suspected of offering substandard programs and giving the Superintendent of Education authority to revoke a school's license.

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<sup>64</sup>The only direct Federal attempt to define program quality was in the early 1900s. The then Bureau of Education prepared a list of colleges ranked according to four levels of quality. This met with such strong opposition from the higher education community that both Presidents Taft and Wilson refused to publish the list. The incident made clear the need for a reliable guide to the quality of postsecondary institutions and ironically was a spur to the development of private accreditation.

<sup>65</sup>*Accreditation Criteria: Policies, Procedures and Standards*. Washington, Accrediting Commission of the Association of Independent Colleges and Schools, 1985.

In Ohio, proprietary schools submit applications to the Board of School and College Registration. They must include evidence that curriculum requirements are being met, documentation of teacher qualifications, and curriculum materials. State staff review these documents and a consultant performs a site visit before a school is licensed. Critics have charged that the staff resources are inadequate for a meaningful review of individual schools. The only professional staff is an executive secretary of the board and there are only 5 part time consultants. No school has ever had its license revoked for disciplinary reasons.<sup>66</sup>

New York law and regulations require schools to submit extensive documentation and to undergo a self-evaluation. Schools provide detailed descriptions of programs, instructional components, and materials. State agency staff review the documents and may make one or two site visits, a process that can take 6 to 12 months. Nevertheless, critics in New York have also charged that, despite the strict rules, poor schools slip through the cracks because monitoring and enforcement are insufficient. Licensed schools reportedly continue to operate without books or equipment or in overcrowded classrooms.<sup>67</sup>

But even with adequate specification of standards for educational inputs, and rigorous followup and monitoring, the question remains whether these are appropriate measures of quality. In recent years, at the elementary and secondary education level, attention has begun to focus on what we expect our students to know rather than on school characteristics, and this focus on effectiveness and program outcomes has also begun to be reflected at the postsecondary level. In traditional higher education, the reform movement has suggested the need for assessment of student outcomes. In part, these proposals have been driven by State universities searching for additional arguments to justify revenue requests.<sup>68</sup> Vocational education is also increasingly looking to performance standards and student outcomes, such as job placement rates, as measures of program quality. Both the House and Senate bills reauthorizing the Perkins Vocational Education Act include provisions for performance standards for vocational education.<sup>69</sup> COPA, itself, has suggested accrediting bodies need to pay more attention to outcomes and

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<sup>66</sup>See series of articles in the *Cleveland Plain Dealer*, Apr. 24-27, 1988. Ohio passed new legislation for proprietary schools in July 1988. Proposed new regulations were issued Apr. 18, 1990.

<sup>67</sup>Berger, Joseph. *Unfilled Promise of Training and \$40,000 Job Spurs Suit*. *New York Times*, Aug. 6, 1988. See also *N. Y. State Assembly Hearings*, 1988.

<sup>68</sup>Hines, Edward R. *Higher Education and State Governments: Renewed Partnership, Cooperation or Competition*. *ASHE-ERIC Higher Education Report*, no. 5, 1988.

<sup>69</sup>See U.S. Library of Congress. Congressional Research Service. *Carl D. Perkins Vocational Education Act: Issues for Reauthorization*. Issue Brief No. 89088, by Richard N. Apling and Paul M. Irwin (updated regularly). Washington, 1989.

improving standards of quality. Attention has thus turned to various measures of student success, most prominently to dropout or completion rates, and job placement data.

## DROPOUT/COMPLETION RATES

One frequently suggested measure of program quality is dropout rates. Newspaper accounts of problems in the proprietary sector have alleged that some schools have extremely high dropout rates.<sup>60</sup> Aside from anecdotal evidence, however, there is very little nationally representative information on the current overall dropout rates in the proprietary sector. Conceptually, there are a number of problems in viewing a school's dropout or completion rate as an absolute indicator of program quality. First, students dropout for a variety of reasons--because they have changed their mind, because of personal or financial problems, because they fail to make satisfactory progress, or because of dissatisfaction with the quality of the program. A high dropout rate could signify very high academic standards, or problems with program quality, or neither.

The current regulatory structure does view dropout rates as an indicator of potential problems rather than as an absolute standard of program quality and school eligibility. Most of the major proprietary accreditation commissions request annual information from member schools on dropouts (with the exceptions of COEI and ACCET). AICS is currently considering special requirements for schools with dropout rates above the average for their membership as a whole. The current average of approximately 40 percent for AICS schools is not significantly different from the rates usually attributed to traditional higher education institutions. Schools with high rates may be required to develop plans to improve retention or conduct evaluations of current admissions standards and procedures. State agencies have generally viewed the question of dropout rates as a consumer protection issue. However, California's new law on proprietary schools does set a maximum dropout rate (40 percent) for schools seeking to obtain or retain State approval.

Federal regulations do contain a numerical standard for dropout rates as part of the administrative capability criteria for certification. The definition of administrative capability includes a section that permits the Secretary to require institutions to "take reasonable and appropriate measures to alleviate" high dropout rates in order to be certified for participation in the title IV programs. High is defined as 33-percent withdrawal or dropout rates. Schools that report higher rates at the time of application for certification must also submit to the Secretary a plan for reducing the rate.

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<sup>60</sup>These include the *St. Petersburg (Fla.) Times*, Apr. 20-22, 1966; *Norwedy (Long Island, N.Y.)* June 22, 1966; the *Hartford Courant* (Conn.), Nov. 8, 1967; the *Arizona Republic* (Phoenix), Dec. 15, 1967; the *Chicago Sun-Times*, Jan. 3-4, 1968; the *Cleveland Plain Dealer*, Apr. 24-27, 1968; the *Los Angeles Times*, June 16-17, 1968; the *Minneapolis Star Tribune*, Apr. 27, 1969; and the *Houston Chronicle*, May 26, 27, and June 1, 1969.

Implementation of the plan and actual reductions in rates have not however been monitored by ED once a school is certified.<sup>61</sup> The 33-percent standard may actually be fairly rigorous given the comparable rates for degree granting institutions. However, without data on actual rates across schools in the proprietary sector, it is difficult to determine what an appropriate level should be.

An alternative would be to view dropout rates from the perspective of recruitment and admissions rather than program quality. High dropout rates could be a useful signal of possible problems in recruitment and admissions, from which students need protection. The consequences of dropping out are of particular concern for proprietary school students. This is due to several factors. First, because these are specific, short-term programs without transferable credits for work completed, students cannot dropout and then pick up where they left off later at another institution.

Second, the demographic characteristics of the students combined with the high cost of the programs, relative to community colleges, for example, increases the negative consequences of dropping out.<sup>62</sup> Because proprietary students are more likely to be poor and to need a loan to finance the training they receive, those who dropout may be no better off, still unemployed or even on welfare. As a result, they may be unable to repay any student loan. If they default on the loan, they also lose access to further Federal student aid. This may be less of a problem for middle class students, who are more likely to have resources to pay off debts, or to students who drop out of public vocational programs, with substantially less debt.

In a recent review and analysis of the dropout problem in traditional higher education institutions, Vincent Tinto argues that a key factor in this phenomenon is the mismatch between the student and the institution. He emphasizes the need for more attention to the development of appropriate admissions criteria that will guide student selection while at the same time avoiding discriminatory judgments. High dropout rates are less an indicator of problems with program quality and more an indicator of problems in admissions and student choice.<sup>63</sup> Many potential proprietary school students may be even less well-prepared or have few, if any, support systems for choosing schools to match their needs and career objectives.

Thus, proprietary school dropout rates become an issue of helping students to make the right choices, and requiring schools to have appropriate

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<sup>61</sup>34 C.F.R. 668.17.

<sup>62</sup>For a description of students and schools, see *Proprietary Schools*.

<sup>63</sup>Tinto, Vincent. *Leaving College*. Chicago, University of Chicago Press, 1987. He suggests that approximately 67 percent of those who enroll in 2 or 4 year degree programs leave the first institution attended without completing a degree and that approximately 48 percent of these students never complete a degree.

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admissions procedures and student services to help students remain in school. These concerns are explored in more detail in the chapter on student protection issues.

## JOB PLACEMENT

Conceptually, job-placement rates make a great deal of sense as an objective measure of the quality of proprietary school programs.<sup>64</sup> As with dropout rates, placement rates can also be viewed as a student protection issue. If schools claim to be training for employment in a particular field, then they should be required to disclose their success in placing graduates. This use of placement-rate data is discussed in the student protection chapter. A summary and review of the available information about actual rates in proprietary schools as well as a discussion of the problems in defining placement will be covered in the final report in this series, a study of labor market outcomes.

Placement rates could provide an important measure of the effectiveness of proprietary school programs. As a recent report by the New York State Education Department states: "the appropriate criteria for success in job training programs are the attainment of job skills, success on the job and employer satisfaction rather than academic degree attained or successful completion of the program." The California legislature recently passed a joint resolution urging the President and Congress, as part of reauthorization of the Higher Education Act, to consider that "eligibility for institutional participation in State and Federal financial aid programs should be contingent upon clear evidence that students are benefitting from a quality education that leads to a reasonable likelihood of gainful employment or certification of licensure in a professional field."<sup>65</sup>

Accrediting agencies typically have subjective standards for placement success rather than quantitative norms. For example, the NATTS standards for accreditation state: "Evaluation of the education program is based upon the success with which announced objectives are achieved . . . . The chief educational objective is to train suitable persons for entrance or advancement in one or more occupations . . . ."<sup>66</sup> None of the proprietary accrediting agencies mentions specific placement rates as part of their standards, although

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<sup>64</sup>The NHSC argues that homestudy courses are an exception, because people enroll in such courses for a variety of reasons, not necessarily immediate occupation in a field. One might then question their inclusion in postsecondary education programs as opposed to adult education, but that is an issue beyond the scope of this paper.

<sup>65</sup>New York State Education Department. Office of Continuing Education. *A Comprehensive Policy for Approaching Proprietary School Issues*. Albany, Mar. 6, 1990. (Hereafter cited as *Proprietary School Issues*) See also, the *Congressional Record*, Sept. 28, 1990, p. S12150.

<sup>66</sup>*Standards of Accreditation*, Accrediting Commission of NATTS.

NATTS, AICS, and NACCAS do review schools' placement rates in the annual reporting process. Placement rates are also definitely considered in the on-site evaluations that take place prior to a school receiving initial or renewal of accreditation.

Proprietary school accrediting agencies argue that any specific rate standard would be too rigid. For example, a 60-percent rate might be commendable in certain circumstances—for students who are low-income, high school dropouts, in an area of high unemployment, and mediocre in others, training for an occupation with low skills and high demand. They consider placement rates in the context of individual school and program circumstances, not as an either/or criterion for accreditation. Other factors that are considered by the accrediting agencies include employer and student satisfaction. Several of the accrediting groups include surveys of students and employers as part of the initial accreditation process. All of the accrediting groups agree, however, that schools with very low rates need to be watched, as such rates are a possible symptom of problems in the program.

State statutes and regulations governing legal authorization of proprietary schools have not typically included specific placement rates as a criterion for determining licensure. Frequently, new schools that apply for a license will not have any placement experience yet. California recently passed legislation that would remove school eligibility to participate in aid programs if placement rates in proprietary schools fall below 70 percent of graduates, while Illinois recently set the minimum at 50 percent of the average placement rate for such schools. Several other States are considering or have passed legislation requiring the collection of job placement rate information from schools.

There is no specific placement rate standard as part of the current eligibility/certification or program requirements for participation in title IV programs. Developing such a standard, perhaps as a minimum requirement for eligibility, would require a standard definition of the term (which does not currently exist), as well as collecting, verifying, and analyzing school data.<sup>67</sup>

At one time, such a standard was in effect for veterans' assistance programs. Legislation passed in 1970 (38 U.S.C. Sec 1675) prohibited the VA from approving the enrollment of eligible veterans in courses that had vocational objectives unless justification was presented showing that at least one-half of the persons completing the course over the preceding 2-year period had been employed in the occupational category for which the course was designed to provide training. This requirement was abandoned in 1980 because of the uncertain validity and applicability of the data collected as well as the administrative difficulties in compiling and analyzing it. A recent

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<sup>67</sup>The Student Right to Know and Campus Security Act, H.R. 1454, recently passed by the House, would also require ED to develop methods for measuring job placement rates, among other data.

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commission studying problems with the VA regulatory system concluded that a record of job placements would be instructive, but did not recommend reestablishing the requirement because of the administrative difficulties and expense involved.<sup>68</sup>

Given these difficulties with defining and verifying such rates, the imposition of a minimum placement rate as a standard for eligibility/certification or program participation may be unrealistic. On the other hand, such data, even if less "trustworthy," might be collected annually and used to trigger program reviews for schools with rates below a certain level.

### PROGRAM CHARACTERISTICS/COURSE LENGTH

In general, the eligibility criteria for participation in Federal student aid programs are applied to institutions not to programs. The only program characteristic that is considered is course length. A vocational school is defined as a school that provides a program of postsecondary education that is not less than 300 clock-hours. This is the definition that is used for the GSL program. For other title IV programs, the definition of proprietary schools includes a minimum of 600 clock-hours.<sup>69</sup>

#### Verification of Course Lengths

Recent reports from the Inspector General's Office in the Department of Education raise two verification concerns with regard to course length for proprietary school programs. One problem is the lack of verification of course length by the Department during the eligibility and certification process. Some schools are allegedly deliberately falsifying the length of courses in order to qualify for aid. ED claims it does not have enough staff to verify lengths for every course at every institution applying for eligibility. A related issue concerns schools who do not follow agreed upon formulas for conversion of clock-hour programs to credit-hours. Some schools are allegedly inflating the number of credit-hours in order to qualify students for additional aid. Presumably, this problem could be dealt with through verification during departmental program reviews or external audits.<sup>70</sup>

Accrediting agencies do attempt to verify program length during initial accreditation and renewal visits, through review of attendance records, and

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<sup>68</sup>Veterans' Education Policy.

<sup>69</sup>See 34 C.F.R. 600.5, 600.7.

<sup>70</sup>U.S. Department of Education. Office of the Inspector General. *Inequitable Clock to Credit Hour Conversions Harmful to Students and Taxpayers. Management Improvement Report No. 90-14, Feb. 21, 1990; and ED Has Determined Certain Institutions to be Eligible for the SFA Programs Without Verifying Data on Course Length. Management Improvement Report No. 89-02, Dec. 23, 1988.*

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student files. However, new programs instituted between reaccreditation cycles may only have a paper review.<sup>71</sup>

### Appropriate Length

The broader question raised by the Inspector General's report is what is the "appropriate" length of study for a course/program of occupational training in any specific field. For some occupations for which proprietary schools provide training, such as cosmetologist, barber, or truck driver, State occupational licensure or certification requirements may establish a minimum amount of training. There is however no generally accepted maximum amount of training in most fields. The Inspector General's report essentially charged that some schools were padding courses beyond required minimums in order to qualify their students for eligibility for Federal aid.

It seems clear that the minimum or maximum could vary depending on the materials covered. For example, a minimum-length course might provide the basics in a field for entry level employment, but a longer course might provide additional training that would help in advancement. The appropriate course length may also vary depending on the standards for admission of students. The lower the academic standards, the longer students may need in order to learn the minimum skills in a field.

None of the agencies in the current regulatory structure look at the length of a program in relation to its declared objectives. Most accrediting agency staff believe that the on-site review team or expert program reviewers would question egregious stretching. Neither the accrediting agencies nor State regulatory offices explicitly require review of course lengths for "appropriateness."

One option to deal with this problem, proposed by the IG and others, is to have the Federal Government establish guidelines and determine minimums in the various fields and then provide student aid only for the minimum length of training. Aside from the inequity of providing assistance through graduate school for students attending traditional degree granting institutions, but only providing aid for the minimum training to students attending proprietary schools, it is not clear that establishing training program minimums could be accomplished without great difficulty and controversy. Even in the few fields where such minimums have been established for

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<sup>71</sup>The course length issue has been a particular problem for home-study schools. Correspondence courses must be fit into categories developed for residential programs. The NHSC has argued that the very nature of correspondence courses is flexibility in the amount of time to complete a lesson and a program--such programs are measured in terms of number of lessons and not time. While the NHSC signed an agreement with ED in 1980 to verify course lengths, their current recommendations on reaccreditation suggest that course length criteria be eliminated for correspondence school programs.



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professional or occupational certification by States, they frequently vary tremendously from State to State.<sup>72</sup>

Another alternative would be to abolish a minimum length for eligibility for student financial assistance. The size of the student aid award, whether a grant or loan, could be prorated according to program length. This assumes that program prices (tuition) are directly related to program length. This assumption is clearly not true across postsecondary education institutional sectors, and types of training, since a student in a 9-month proprietary school training program is frequently charged more than one in a 2-year community college program in the same field. However, it may be reasonable for training programs within a sector and within fields, for example, a 6-month cosmetology program will cost more than a 3-month program. The FY 1990 reconciliation legislation, P.L. 101-239, took a step in the direction of establishing as Federal policy that maximum aid amounts could be tied to the length of a program. The legislation limited the maximum SLS loan amounts for short-term programs (those of a year or less) to lower amounts than the maximum for longer programs. This alternative obviously raises broader questions of how prices, i.e., tuition charges, are determined and their relationship to the benefit the student receives from the course.

## PROGRAM COSTS

Cost issues in the proprietary school sector include the question of how much tuition schools charge, the relationship between tuition, program costs, and profit margins, and the appropriateness of course offerings in relation to a labor market. The issue of the benefits of proprietary school programs in particular fields in relation to their cost raises complex questions relating to Federal objectives in aiding such programs and whether students should be assisted to attend them. These questions include: is training needed in order to get an entry-level job in this field, or if not, does training insure more rapid advancement? Are jobs actually available in the field? Given starting salaries in the field, is the cost worth it or would the student be better off choosing another field? Is the length of the course and its cost justifiable given the job market and starting salaries?

Proprietary schools have argued that the market place is the best determinant of answers to these questions, and of the ultimate efficiency of the programs they provide. The problem with trusting to the market to regulate prices is that it assumes knowledgeable student consumers who can weigh the likely costs and benefits, who know the market and job potential of training in a particular field, and who understand their future risk if the program does not lead to a job with a reasonable wage and they end up

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<sup>72</sup>The Department of Labor has estimated training requirements for various occupations in the *Dictionary of Occupational Titles*. However, the amounts of time are very rough estimates, are over 10 years old, and include on-the-job training time as well. Raising the minimum requirement for student aid to programs of at least 600 hours has also been suggested, but arguably this could just lead to even more course-stretching.

defaulting on a student loan. There is a seeming contradiction between the proprietary schools view that their students are sophisticated enough to make wise choices among training programs, but then blame the schools' dropout and default rates on the unsophisticated students they serve.<sup>73</sup>

A recent IG report charged that "tuition costs charged by the schools were not a reflection of the schools actual cost of instruction, but merely a reflection of the maximum financial aid available." Similarly, a New York State report argued that student costs were frequently unrelated to the benefits and that too many schools charged high prices for training in jobs for which there was little or no demand. The report suggested that public support for proprietary schools should be based on an evaluation of the cost/benefits of the training and "focused on providing training for jobs which are in demand and particularly those which are important to the economy and or the well being of the public. Programs must provide their students with the skills which are currently in demand in the workplace."<sup>74</sup>

The current regulatory structure does not attempt to address cost/benefit issues for particular vocational training programs. Accreditation agencies do not specifically look at these issues. AICS has standards related to the use of market surveys and community advisory boards to assist in school decisions to set up new programs. The agencies also require schools to submit some justification for establishing new programs. However, the accreditors focus on adequate resources to set up a new program, and not on whether the school should do so at all, nor on how much the tuition charge should be. Certainly, the amount of aid available may be a factor in setting tuition, as is likely true for most postsecondary institutions. In general, accrediting groups do not feel comfortable telling their members, who are, after all, profit-making concerns, how much they should charge.

Accreditors are reluctant to get into issues of market demand for training, appropriate lengths, and reasonable tuition charges. While accreditation staff may privately agree problems exist in these areas, particularly with high-cost training programs for low-paying service occupations (\$6,000 for a course that leads to a certificate qualifying a student for a job as an orderly in a nursing home, for example), they are uncomfortable questioning school owners on these issues. As accrediting agencies, their main goal is to serve their members by upholding standards. They claim that setting limits on prices or ultimately profits is not their function and would arguably lead to lawsuits

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<sup>73</sup>See, for example, U.S. Department of Education. Committee on the Reauthorization of the Higher Education Act of 1966. Testimony of Stephen J. Hark, President of NATTE, 1988, unpublished. Also, Lee, John B. Economically, These Schools Make Good 'Centers'. *Career Training*, Nov. 1987. p. 26-34.

<sup>74</sup>*Proprietary School Issues*. Also, U.S. Department of Education. Office of the Inspector General, Improving Ability to Benefit Determinations and Related SFA Admissions Practices in the Department's SFA Programs. *Management Improvement Report No. 80-3*, Nov. 18, 1989. (Hereafter cited as *Management Improvement Report No. 80-3*)

claiming restraint of trade. In general, they argue that if students are willing to pay the price and a school's dropout and placement rates look reasonable, schools can charge whatever the market will bear. Proprietary school associations claim that prices for proprietary schools have gone up less than those for traditional higher education institutions. There are no independent data to prove or disprove this claim, since, until recently, the ED surveys on tuition and fees have not included proprietary schools.

If accrediting agencies by the nature of their relationship to their member schools are not the appropriate place to look for an examination of the costs of these programs, can this sort of oversight be exercised by some other component in the regulatory structure? Generally, State licensing and registration statutes for proprietary schools do not include requirements for an examination of reasonable charges or for market analyses of course offerings, even though they may include provisions for State approval of programs or tuition charges.

The New York State Education Department study suggested that the State agency pay more attention to this issue. New legislation proposed in Tennessee would require proprietary schools to document educational need for programs offered. States frequently do take responsibility for reviewing program offerings and deciding which universities or colleges in a State system will offer a program or major and approve tuition charges, but, of course, these are public institutions. Presumably, States could do more to insure authorized training programs include required skills or that only new programs in areas of high demand are approved.

The Federal Government could use its authority under title IV program participation agreements to require institutions to disclose the basis for their tuition charges. ED could also develop standards for what could be included in tuition charges, and for acceptable profit rates for proprietary schools.<sup>76</sup> Arguably, however, such an approach would violate the statutory prohibition against departmental interference in institutional decisionmaking.

Another option would be to set acceptable or maximum rates for student assistance by program. The pricing structure in postsecondary education has some interesting parallels to the health industry and hospital reimbursements under Medicare. Postsecondary institutions have generally not had differential pricing for programs at the same institution. Variations in tuition and fees have been a function of the institutional characteristics, not type of program or length. Student aid programs have maximum amounts, but the aid is otherwise directly linked to institutional costs regardless of the type of program.

One possible option would be to establish maximum amounts of aid for different types of programs, perhaps based on the occupational field and the

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<sup>76</sup>See *Management Improvement Report No. 80-2*.

length of the program. ED might engage in research to establish reasonable charges based on prevailing tuition rates, for example. Total aid amounts would still vary for the same program because assistance is provided for other costs of attendance and not just tuition and fees. This would be a step in regulating the relationship between the prices charged and the aid available but would not necessarily deal with the broader issue of how to judge the benefits of the training in relationship to the job market. A more extreme step would be to restrict the kinds of occupational training for which Federal student aid is provided. Federal support for training in low-skill service occupations where entry-level jobs pay only the minimum wage, for example, would be provided through Federal job training programs instead.<sup>76</sup>

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<sup>76</sup>The ramifications of such an alternative are discussed in more detail in another report in this series, U.S. Library of Congress. Congressional Research Service. *Proprietary Schools and Student Financial Aid Programs: Background and Policy Issues*. CRS Report for Congress, by Charlotte J. Franz. Washington, 1990.

## CHAPTER 4 INSTITUTIONAL INTEGRITY

- The regulatory goal should be to avoid providing financial assistance to students to attend institutions that are chronically financially unstable, or about to close.
- Because situations and school financial conditions can change quite rapidly, annual monitoring is important. There are gaps in financial monitoring procedures at all three levels in the current structure.
- School "teachout" agreements, State tuition recovery funds, and other steps have recently been taken to deal with students stranded in mid-training when a school closes.
- Despite the potential for instability, new branches and new owners can continue to receive Federal title IV funds without interruption under current Federal regulations.

Institutional integrity is also a regulatory issue of concern for the proprietary sector. Proprietary schools are private profitmaking entities with a need for rapid turnaround in programs and student clientele, which may increase their potential for financial instability. It has also been argued that the profit motive may lead to greater pressures for too rapid growth, expansion into branch campuses and buying and selling schools.<sup>77</sup>

This chapter discusses a series of issues concerning institutional viability and control. These issues include questions of financial stability, establishment of branch campuses, and changes in ownership or control. Problems in these areas can range from concerns about the basic soundness of the enterprise, to financial manipulations, and fraud and abuse. In a number of instances, current or proposed remedies do not involve prevention or detection of problems in these areas, but protection of the student from their consequences. In this respect, they overlap with issues considered in the next chapter, but they are discussed here because they involve a regulatory response to institutional problems.

The underlying question is whether an institution is financially and administratively sound. The regulatory goal is to avoid providing assistance for students to attend institutions that are on the edge of closing for any of a number of reasons--too rapid growth, negative cash flow, changing markets, and declining enrollments. Even if they remain open,

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<sup>77</sup>*Proprietary Vocational and Home Study Schools: Trade Regulation Rules*. Also, U.S. Department of Education. Office of the Inspector General. *Unrestricted Branching is Detrimental to Students and Taxpayers. Management Improvement Report, No. 90-13, Feb. 20, 1990.* (Hereafter cited as *Management Improvement Report No. 90-13*)

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chronic financial instability may have a negative impact on institutional quality, for example staff laid off, increased class sizes, deteriorating equipment or facilities. The rapidity with which school situations can change is probably greater in the proprietary sector because of the extent to which local economic conditions can affect potential enrollments and placements. Such schools do close or declare bankruptcy, and this creates problems for students who have not completed a program and for the Government that has financed their attendance.

Both the establishment of branch campuses and changes in ownership can have a direct impact on institutional viability. The proliferation of branches can be a problem because the main school may be unable to maintain quality control, or may be under too great a financial strain during the start-up period. Schools that set up branches too quickly often may not be able to keep tabs on admissions practices and the quality of instruction at the branches. Branching may make it harder to control quality and ensure accountability. This may be especially true when branching is in unrelated fields or in distant locations.

Changes in ownership may also lead to financial instability because the basic nature of the institution may have changed. A new school owner may have neither the experience or the expertise to keep a school in sound financial condition. It has also been alleged that branching and changes in ownership can be used by unscrupulous school operators to essentially circumvent regulatory controls, avoiding liabilities and eligibility provisions.<sup>78</sup>

### FINANCIAL INSTABILITY AND SCHOOL CLOSURES

There are two ways for the regulatory structure to deal with the problem of financial and administrative instability and the possibility of school bankruptcies or closures: by careful screening to prevent unstable schools from becoming eligible for participation in title IV programs, and by protecting students and the Government from the financial consequences of such events. The current regulatory system contains elements of both prevention and protection, with a number of recent suggestions for strengthening both areas.

Accrediting agencies currently attempt to deal with these problems in a number of ways. All of the accrediting bodies review financial information as a part of the initial accreditation process, in renewal of accreditation, and as part of an annual reporting process. However, only two commissions (for AICS and NHSC) require independently audited financial information at any of these stages. Recently, AICS, NATTS, and NACCAS have begun developing explicit financial criteria against which to judge an institution's fiscal health through the annual reporting process.

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<sup>78</sup>Management Improvement Report No. 90-13.

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One of the difficulties of detecting struggling institutions is that situations and school financial conditions can change quite rapidly, so that annual monitoring becomes more important. AICS, NATTS and NACCAS have all moved recently to a more systematic review of annual report data on financial conditions. AICS, for example, requires schools with certain signs of problems to go on quarterly reporting. Approximately 20 percent of their accredited schools are currently in that situation. The criteria for placing schools in that category are not published, but conversations with the accrediting staff indicate that reviews of the annual reports flag too rapid growth as well as declines in enrollment or revenues.

One additional step would be to require audited financial information on an annual basis. Some of the accrediting groups feel that the current reporting requirements are sufficient and that the added expense for small schools would not be worth the chance of catching potential problems in a few more shaky schools. The main problem is that once the accrediting agency detects financial difficulties, there is little they can do beyond closer monitoring. If they withdraw accreditation, the school is sure to close, possibly leaving students stranded with neither a refund nor an education.

Another problem for accrediting agencies in monitoring schools with financial problems is dual accreditation. If a school has dual accreditation and believes it is being monitored too closely by one agency, it may voluntarily withdraw, remain accredited by the other body, and continue to be eligible for title IV aid.<sup>79</sup> As previously discussed, one of the revised Federal criterion for recognition of accrediting agencies requires them to take into account the action of another agency in withdrawing accreditation. However, this does not really solve this problem. One recommendation that has been suggested is to require schools with dual accreditation to designate one for the purposes of Federal eligibility so that they could not withdraw from one accrediting group and remain eligible for Federal program participation because of another accreditation but would have to reapply for eligibility.

The proprietary school accrediting groups have also tried in various ways to deal with the consequences when schools declare bankruptcy or close and leave students stranded. Because of the way the bankruptcy statutes work, filing for bankruptcy is sometimes used by a school as a way to protect its assets and continue the flow of Federal funds. According to accrediting commission staff, courts in several cases have ruled that accreditation and even Federal certification for participation in title IV programs are property rights of the institution and cannot be withdrawn once a school declares bankruptcy. The result is that problem schools may continue to receive Federal funds, with a resulting discrepancy between available assets and Federal liabilities when they close. In addition, more students are ultimately

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<sup>79</sup>P.L. 101-530, the Student Loan Reconciliation Amendments, limited this possibility somewhat by denying certification or recertification to any school that withdraws voluntarily under a show cause or suspension order.

left with an incomplete education. Dealing with this problem would presumably require some change in the bankruptcy laws to specifically exempt accreditation and eligibility from being considered property rights.

Accrediting agencies have taken some steps to help schools in danger of closing find other institutions willing to absorb the students and complete their training. This practice is usually referred to as a "teach-out." The accrediting groups vary in the extent to which they get involved in such arrangements. None of the accrediting commissions believe they have sufficient financial resources to assume responsibility themselves for teach-outs or student refunds when schools close. Some also argue that this is really a consumer protection issue that should be dealt with by States or the Federal Government and that it is too expensive to require other schools to take unpaying students. In geographical areas with few schools, it also may be virtually impossible to find another school providing training in the same field to take the students. The accrediting commissions of the NHSC and AICS, on the other hand, have tried in different ways to get schools to make arrangements in advance as insurance in case of financial difficulties. The NHSC commission requires a corporate agreement for teach-outs as a condition of accreditation, while the AICS agency has a new policy that requires schools on financial reporting to develop a plan for teach-outs and refunds in the event of closure which the AICS accreditation agency would review and approve.<sup>60</sup>

State agencies also are likely to review financial data or at least to require the provision of such information at the time of licensing a school. However, as is the case with the accrediting agencies, there is wide variation in the amount of financial information required and the extent to which any periodic monitoring takes place. In addition, most States do make some provision for recovery of lost funds if schools close before students complete their programs. Texas provides an example of the types of provisions that have been in effect in most States for a number of years. Schools apply for a certificate of approval and must demonstrate "financial soundness" and post a \$25,000 bond. Change of ownership requires a new application, certificates are renewable annually, and schools must file annual, independently audited financial statements. New York, as another example, requires proof of financial solvency, a net worth of at least \$20,000, and a performance bond of \$20,000 for initial licensure. Recent proposals in New York would also require annual renewals and the annual submission of certified financial statements. New Jersey has recently moved to require criminal background checks on owners and has increased the amount of bonding for proprietary schools.

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<sup>60</sup>The ED recently withdrew a proposed new rule that would have required schools to have "teach-out" agreements. The proposed rule, added to 34 C.F.R. 682.210, would have required private vocational schools participating in the GSL program to have a "teachout" agreement with a school offering a similar program. ED dropped the rule after comments indicated the problems in implementing such a rule were insurmountable.



Enforcement and monitoring of these requirements and review of the financial conditions of schools puts a large burden on the staff and resources in many States. In addition, the bonding approach to protecting students from school closures has frequently proved inadequate because the amounts have not been sufficient to cover refunds due students and the Government when schools close. A number of States have therefore moved to an alternative tuition recovery fund approach. Among these States are California, Georgia, Maryland, Texas, and Connecticut. New York and New Jersey are also considering moving to such a plan. The Connecticut plan, which is fairly typical, requires each school licensed by the State's Private Occupational Schools Division to pay one-half of one percent of net tuition income to the Student Protection Fund for student teach-out or tuition refunds. Interest from the fund goes into a scholarship or grant fund for students enrolled in occupational programs. Such plans seem acceptable to the major proprietary school associations and are being considered in a number of States. However, the problems of school bankruptcies or closures will remain in a number of States without such plans.

The Federal Government's eligibility and certification requirements and audit procedures contain a number of provisions designed to detect financial problems and to recover funds owed students and the government if schools close. In order to be certified for participation in student financial assistance programs, schools must submit financial information prepared by a licensed certified public accountant.<sup>61</sup> However, ED regulations do not hold schools to the stricter standard of submitting certified financial statements. Schools with operating losses for 2 years or a deficit net worth would not meet the financial responsibility criteria. However, these schools may still be certified, but are required to provide financial information to the Department on a quarterly basis. Currently, the Department receives quarterly reports from approximately 10 percent of the eligible certified schools. In addition, a smaller number of schools that apply for certification may be in such poor financial shape that the ED requires an irrevocable letter of credit as surety in case of financial failure before certifying the school.<sup>62</sup>

About 300 to 400 new schools become certified each year. Only a few schools that apply (25 was a recent estimate) fail to be certified. Schools that are not on "special reporting" never have to resubmit financial data. Eligibility must be renewed every 4 years, but this only entails documenting continued licensure and accreditation. If problems are brought to the Department's attention, however, new financial statements may be required.

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<sup>61</sup>34 C.F.R. 600.12

<sup>62</sup>The Inspector General has also charged that the surety amounts requested in the letters of credit are not sufficient to cover Government losses in the event of school failure. See U.S. Department of Education. Office of the Inspector General. *Financial Analysis Certification Process not Adequate to Protect Students and Government. Final Audit Report No. ACN11-80100*, Sept. 15, 1980. (Hereinafter cited as *Final Audit Report No. ACN11-80100*)

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The audit reports prepared by independent public accountants that participating schools must undergo biennially are for the purpose of reviewing the administration of student aid programs and not assessing the overall fiscal health of the institution. In addition, ED has not had any procedure in place to check on the receipt of audits. In 1987, over 2,000 schools had overdue audits, of which 48 percent were proprietary schools.

To help students in situations where schools close in mid-program, leaving them responsible for repayment of a student loan, ED recently issued a policy guidance to guaranty agencies. Agencies may cease to make efforts to collect, i.e., write-off, that portion of the loan that represents the portion of the program the student was unable to complete.<sup>43</sup>

A recent report by the Department's Inspector General (IG) charged that the ED's current certification procedures are not adequate to protect the Government or the students' financial interests.<sup>44</sup> The report implies that ED's perspective seems to be more one of how to insure that every school is certified regardless of the requirements rather than on restricting certification. The IG report proposed requiring certified financial statements prepared by independent auditors, and letters of credit for more schools and for larger amounts of money in order to more adequately cover potential Government losses. Presumably, more schools would also be denied certification.<sup>45</sup>

Other proposed options to strengthen the Federal role in financial review and monitoring include a 1-year provisional eligibility and certification status, with complete reapplication before final certification, to catch financial problems with new schools. Another option would either require all schools to submit annual financial reports that the Department could use to monitor their fiscal health, or require some larger percentage of otherwise certified schools to submit annual reports. The selection of schools could be based on the degree of dependence on Federal aid, or their default rate.

Using a school's dependence on Federal aid, however measured, as an indicator of financial soundness, or as a trigger for increased monitoring, or even setting a maximum dependence on Federal funds as a criterion for eligibility is not a new idea. Under veterans' assistance programs, "veterans and other eligibles may not be enrolled in any course in which more than 85 percent of the enrollees have all or part of their tuition, fees or other charges paid to or for them by the VA or the institution itself." A recent commission

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<sup>43</sup>U.S. Department of Education. *Compromise and Write-Off Procedures*, 92-G-159, May 1989.

<sup>44</sup>See *Issues Noted*; also, *Final Audit Report No. ACN11-80100*.

<sup>45</sup>*Ibid.*

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reviewing these programs felt the provision had been effective in preventing abuse and should be retained.<sup>66</sup>

Aside from discouraging schools whose sole purpose is to abuse student aid programs, establishing an "85-15" rule or something similar for participation in title IV programs might act as a price control. It would arguably restore some of the market incentive for schools to charge only as much as students, at least 15 percent of them, are willing to pay out of their own pockets. On the other hand, such a rule could lead to limits on access for needy students, if schools were forced to turn away applicants in order to maintain their quota of nonaided students. There are no independent data on the average percent of aided students per school, but overall, approximately 80 percent of proprietary school students receive student financial assistance.<sup>67</sup>

The new default regulations adopted by ED to deal with schools with high default rates under the GSL program include a provision for increased monitoring. The new regulations require guaranty agencies to do biennial program reviews of schools with default rates over 20 percent unless the school is operating under an agreed upon default reduction plan.

#### BRANCHING/CHANGES IN OWNERSHIP

All of the accrediting agencies have taken steps to deal with the proliferation of branches in the 1980s and resulting institutional instability, as well as some publicized instances of problems with changes of ownership. These steps, varying in their severity, make branching more difficult and allow the agencies to review changes in ownership more closely. The stricter provisions include restrictions on the number of branches per main campus that can be established within any 1 year, provisional accreditation for branches, or schools with new owners, with full reviews within a year, or withdrawal of accreditation and a new application for schools with new owners. At least two accrediting bodies however, ACCET and SACS/COEI continue to accredit new branches and/or new owners without mandatory site visits.

States also vary widely in the extent to which they automatically include branches in an institution's license or require separate reviews and approvals for branches or for changes in ownership. Out of State schools that establish branches within a State also continue to be a major problem for State regulation. This is because branches are covered by licensure of the main campus in another State that may have less rigorous standards.

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<sup>66</sup>Vocarens' Education Policy.

<sup>67</sup>See Proprietary Schools.

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Federal title IV regulations also include a number of provisions related to branching and changes in ownership.<sup>64</sup> Institutional eligibility applies to the main campus and any branch locations in existence at the time of application. If a school opens a new branch after becoming eligible for participation in title IV programs, it must notify the Secretary within 10 days and must apply to establish eligibility for the new location. If the State and accrediting agency have approved the new branch, ED will automatically extend eligibility to the new location of the main institution. The 2-year requirement is not applied to branches. Certification, based on financial and administrative capability, is only required for the main institution, not its branches. In effect, ED defers to accrediting agencies and the States in its treatment of new branches.

A change in ownership resulting in a change in control also does not necessarily require a school to reapply for eligibility and certification, which would entail interrupting the flow of Federal funds to students for 2 years. If the new owners agree to be liable for any improper use of Federal funds by previous owners and submit financial records among other requirements, ED, after review, will continue the eligibility and certification of the school without interruption. New owners that have previously been convicted of the misuse of Federal funds must submit application as a new institution.

The Inspector General has recently proposed more restrictive new rules for branching and new owners. The IG suggests that all new branches or schools that change owners be required to be in operation for 2 years before becoming eligible to participate in title IV programs. He argues that this is in keeping with congressional intent in establishing the 2-year rule for institutional eligibility, and that ED has in effect improperly waived the requirement for branches and changes in ownership. Requiring 2 years of operation is intended to remove the financial incentives for too rapid expansion through branching or buying up existing schools.<sup>65</sup> One accrediting agency, AICS, currently has a similar rule in effect for branches.

One final recommendation, which has been mentioned in every report on the regulatory structure since the late 1960s, is the improvement of information-sharing and coordination among the components of the triad: accrediting agencies, States and the Federal Government. The fact that it is mentioned but never accomplished suggests there may be some major barriers to increased communications. One problem is that due process requirements designed to protect schools until reviews and appeals have been exhausted often mean that advance warnings of problems are not communicated among members of the various arms of the triad. Although accrediting agencies regularly ask other regulators for information about schools applying for initial accreditation or reaccreditation, there are no established procedures to

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<sup>64</sup>See 34 C.F.R. 600.90-600.92.

<sup>65</sup>Management Improvement Report No. 90-13.

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exchange information at other times. The Federal Government does not request information from other elements of the triad prior to making eligibility and certification determinations and apparently even has problems in exchanging information between the program review and the eligibility and certification units within ED.<sup>99</sup> In addition, there are no procedures in place for the ED to share program review information with accreditors or States.

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<sup>99</sup>Final Audit Report No. ACN11-00100.

## CHAPTER 5 STUDENT PROTECTION

- Questionable recruitment tactics become a particularly serious problem when combined with misuse of admissions standards. Admissions standards must be designed to legitimately screen out those unlikely to succeed without discriminating against the very students most in need of a chance.
- The ability of accrediting agencies, and States and Federal regulations to protect against abuses in recruitment and admissions is limited.
- Various consumer disclosure requirements incorporated in the regulatory structure may be unlikely to have a major impact on abuses in recruitment.
- Revisions in the student aid payment schedule and stricter refund policy requirements may provide incentives for schools to retain students.

Consumer protection is an important issue for proprietary schools because of the nature of the schools. In proprietary schools, the avowed purpose is to prepare students for specific occupations. In order to evaluate a program as a means to a particular job, students need to know the prospects for completing the course, and for getting work in the area for which they are trained. In addition, because of the unitary nature of the proprietary school programs--a single course of study that leads to a certificate in a amount of time, instead of the traditional series of courses with separate credit for each--and, because of the lack of transferability of credits, selecting the wrong program and dropping out may have much more serious consequences for the student consumer whose investment could be totally lost.

The regulatory issues grouped under the heading of student protection focus primarily on problems in the recruitment and admissions processes. Because the current student-aid system provides schools with incentives for enrollment and gives students the choice of schools, there is the potential for abuse in these areas. According to the New York State Department of Education, "The primary reason for the continued abuses lies in the structure of the financial aid system which rewards enrollment in programs rather than completion. Combined with the general characteristics of students attending nondegree vocational institutions, this creates a set of incentives to enroll as many students as possible, rather than efforts to assist students to achieve vocational skills."<sup>1</sup>

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<sup>1</sup>Proprietary School Issues.

Problems in recruitment and admissions at proprietary schools range from honest dilemmas about the balance between access and admissions standards to questionable practices and outright abuses. There has been a history of charges, beginning in the 1970s with the FTC hearing record and continuing with journalistic investigations today,<sup>82</sup> of schools engaging in fraudulent advertising and using high-pressure commissioned recruiters to attract students, admitting unqualified students who then dropout, and failing to provide equitable refunds.

Questionable recruitment tactics may in themselves be potential violations of ethical standards for business practice and of some State consumer protection rules. They become a particularly serious problem for postsecondary education and student aid when these activities are combined with a lack of or misuse of admissions standards. The admissions problem has generally been framed as a problem of the admission of students without a high school degree who do not in fact have the "ability to benefit" from the education or training provided. Department of Education student-aid regulations define an "ability to benefit" student as one who is admitted to a postsecondary institution without a high school degree or equivalent and receives student aid because they fall into one of the following categories: the student passes an admissions test, or they enroll in and complete a remedial program not to exceed 1 year, or they receive a high school equivalency certificate before the end of the program or the first year. There have been charges of outright abuses in this area including the use of inappropriate tests, no testing, alteration of test scores, or falsification of high school graduation.<sup>83</sup>

There is a broader issue, however, than abuse in "ability to benefit" (ATB) determinations and that is how to decide who will have access to postsecondary educational opportunities. The ATB provisions were originally adopted to accommodate open enrollment policies in public institutions that gave students who had not been successful in secondary school a chance to try for education and training that would lead to employment and success in life. However, even high school graduates may not benefit if the match between their needs and the school is not correct. Many argue that high dropout rates at traditional higher education institutions that do not accept ATB students are a consequence of students selecting the wrong schools.<sup>84</sup> In addition, even high school graduates may not have the ability to benefit from a program. At some proprietary schools, high school graduates may not do any better than ATB students on the admissions tests the schools administer, according to accrediting agency staff. Finally, it may be difficult to find

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<sup>82</sup>Dixon, *Proposed Trade Regulation Rule*; see also newspaper series, footnote 84.

<sup>83</sup>For regulations, see 34 C.F.R. 600.11. The charges are found in GAO/HRD-84-17, and *Management Improvement Report No. 80-3*.

<sup>84</sup>Ninto, *Leaving College*.

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appropriate tests that actually measure the ability to benefit from the education and training provided. Schools and, indirectly, Federal policy-makers face a dilemma in designing admissions standards that will legitimately screen out those unlikely to succeed without discriminating against the very students who most need a chance.

Eliminating admissions standards is not an answer because the consequences of failure are so serious for the student. This is particularly true for high-risk students receiving loans to attend proprietary schools. Such students who do not complete a program receive no partial credit for completed work, and are saddled with high debt, or default on loans making them ineligible for further assistance.

The regulatory structure attempts to deal with these problems in three ways: 1) review and approval mechanisms for recruitment and admissions practices; 2) assistance to students in making choices and staying in school, such as disclosure and support services; and, 3) efforts to change the incentive structure to focus on success and retention, not recruitment and enrollment, such as refund policies. The following sections look at the current regulations in these areas and proposals for changes.

## REVIEW AND APPROVAL

All of the accrediting groups for proprietary schools have standards related to advertising and sales/recruitment. All review advertising materials as part of the accreditation process and prohibit misleading statements about student aid and employment opportunities. Rules on the use of third-party recruiters vary from general standards that urge schools to use care in the selection and use of recruiters to more stringent standards that specifically prohibit surveying or canvassing in public places, referrals by employment agencies, or testing and admissions decisions by anyone other than salaried employees who do not receive commissions based on enrollment.

The perennial problem that accrediting agencies face is enforcement of the standards in the interval between initial accreditation and reaccreditation, as they only learn of abuses through complaints from students or other schools. Because they are not staffed, nor philosophically prepared, to do on-site monitoring, their ability to protect against abuses in these areas is limited. The accrediting groups also vary in the extent to which they feel that an outright ban on commissioned recruiters is necessary. Most argue that separating recruitment and admissions staff is sufficient. In part, this may be due to a reluctance to deprive their members of what appears to be a successful and profitable recruitment technique.

A number of States, but by no means all, have provisions requiring licensing or approval of commissioned recruiters or sales agents. Consumer protection statutes may also prohibit misleading advertising. In New York, for example, commissioned recruiters must be certified with the State and schools must pay surety bonds of \$1,000 for each recruiter. Unfortunately,



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only nine field staff are responsible for monitoring the activities of at least 2,500 recruiters. Other States may require a cooling-off period after students sign an enrollment contract or prohibit specific recruitment techniques.

At the Federal level, general provisions exist that give the Secretary the power to deny participation in Federal financial aid programs to any institution that misrepresents the nature of its educational program, its finance charges or the employability of its graduates. In addition, current law prohibits the use of commissioned salesmen to promote the availability of guaranteed student loans.<sup>66</sup> Nevertheless, information on sales, advertising and recruitment practices are generally not available when the Department's initial decision on eligibility and certification takes place, so that the Federal Government is only likely to uncover problems in these areas through complaints or during program reviews. In recent years the Department has been criticized for cutbacks on program reviews: schools may go for long periods without any Federal oversight in this area.

As part of its default reduction initiative, ED has now announced its intention to intensify its program review efforts, and has also proposed legislation that would prohibit schools from employing anyone except salaried employees or volunteers from recruiting and or admitting students and prohibit the use of financial incentives based on enrollment or student aid volume for persons involved in recruiting or admissions efforts.<sup>67</sup>

With respect to admissions standards and particularly the admission of ATB students, the accrediting agency standards tend to reflect current Federal regulations that require admissions testing, counseling and remediation, or a high school equivalency program. The revised Federal criteria for recognition of accrediting agencies published in 1985 added that the Secretary would consider whether the agency had documented accreditation criteria regarding the admissions tests used for ATB students, and other methods institutions used, including preadmissions testing or evaluations, to determine ability to benefit.

Accrediting agencies have generally been struggling with the problem of what rules to establish for schools in the use of tests and cut-off scores. All of the accrediting groups have been engaged in an ongoing effort to help member schools by recommending appropriate tests, followup studies by schools to see if the cut-off scores in use are appropriate, and rules requiring schools to establish and apply admissions standards.

Many accrediting agency and school staff are willing to admit informally that current admissions tests and cut-off scores are fairly arbitrary and

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<sup>66</sup>For regulations implementing these provisions of the Higher Education Act of 1965, see 34 C.F.R. 686.71-76, and 682.200.

<sup>67</sup>*Reduction Initiative.*

frequently are not very good predictors of the likelihood of success in the program. Several of the accrediting groups have recently begun working with an American Council on Education task force to study and evaluate available tests and cut-off scores. One problem they will have to confront is that most standardized testing has been accused of discriminating against the very students most likely to be enrolling in proprietary schools.

Most States in the past have not had specific regulations dealing with admissions standards or testing. At least two are currently considering legislative changes in this area. New York currently recommends, but does not require, schools to use certain tests for ATB students and is currently considering a change that would require schools to use mandated tests and maintain a contract with a specific independent testing agency to administer the tests. A recent Florida report recommended that the State require proprietary schools to use certain specified basic skills tests prior to admission and that students be required to master the skills prior to graduation. Florida currently requires basic skills testing for public vocational schools in the State.<sup>97</sup>

At the Federal level, as part of the default reduction initiative, ED has proposed legislation to modify the ability to benefit provision. The proposal would require ATB students to pass a test to measure their abilities that is both formulated and administered by an independent third party, as approved by the Secretary. The Inspector General's Office has also recommended that students failing the test be referred to remedial instruction and required to take a different test upon completion before being admitted. As part of the recent reconciliation legislation, schools participating in the guaranteed student loan programs and admitting ATB students must make available a proven, effective program to help these students obtain high school equivalency. None of these proposals, however, deal with the broader difficulties of devising admissions tests that screen applicants without discrimination, regardless of whether they have completed high school.

## DISCLOSURES AND SUPPORT SERVICES

Another approach to the problem of inappropriate recruitment and admissions is to attempt to help students make better and more informed choices. Thus, various consumer information disclosure provisions have been incorporated in the regulatory structure. Accrediting agencies have focused on insuring that students are provided with accurate and complete information on institutional policies and charges (enrollment, attendance, graduation, refunds) and on the school's accredited status. Where placement and employment claims are used in advertising, the accrediting agencies also require schools to have available information on actual placement rates.

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<sup>97</sup>*An Update of Proprietary Education. Report and Recommendations of the Postsecondary Education Planning Commission. Report 7, Tallahassee, 1989.*

To some extent, the public has perceived accredited status itself as sufficient consumer information. Certainly, in the proprietary sector, there is at least a choice between accredited and nonaccredited schools, unlike traditional higher education where accreditation status is practically universal. However, it is unclear exactly what that status means for consumer protection.

As Gordon Davies argues in a recent article, one might assess accreditation in terms of three analogies: the Better Business Bureau, the Underwriters Laboratories, and Standard and Poor's. Among other things, the Better Business Bureau serves as a reference about companies and their reliability, and provides information about complaints; Underwriters Laboratories approves a product or not and provides the information on a product label, while Standard and Poor's rates the risk of purchasing certain investment issues. Currently, accreditation probably most closely resembles the Underwriters Laboratories, in that it provides a label which *testifies to minimum standards*. Unfortunately, the consumer information that students need to make an informed choice is probably a lot more like Standard and Poor's, which is not something that accreditation agencies can provide.<sup>88</sup>

States have sometimes had provisions that required schools to make available to prospective students certain information with which they could make informed comparisons themselves, such as dropout rates, placement rates, and the starting salaries of graduates. California and Illinois have recently adopted such a requirement. Minnesota has a requirement that vocational schools that claim to help place students must give the State placement data and also give a summary to every student who enrolls. However, the data are not verified or reviewed by the State.<sup>89</sup>

To avoid problems with State monitoring of school disclosure requirements, a new approach is being tried in some States. To use the above analogy, the State agency assumes the role of a Standard and Poor's rating service for schools. The idea is that States should help students make postsecondary enrollment choices by collecting comparative data on programs, costs, graduation rates, placement, and earnings and distributing it through high school guidance counselors, welfare agencies, and career centers. Texas recently passed legislation that requires the State education agency to collect such information and would require proprietary schools to provide the information to prospective students. Arizona had a similar program. After a newspaper expose of low salaries for proprietary school graduates, the State instituted a new program that collected and published data on placement rates and starting salaries by school. The first year's data showed student results for many schools were poor, and, perhaps as a consequence, funding for

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<sup>88</sup>Davies, Gordon K. *North Central Association Quarterly*, v. 62, no 2, Fall, 1987. p. 340-345.

<sup>89</sup>See the *Minneapolis Star Tribune*, Apr. 27, 1989.

continuation of the project was dropped by the State legislature. Florida has also been considering a proposal to include proprietary schools in the Florida Education and Training Placement Information program that already operates for public vocational schools in the State. In another variation, New York has been considering proposals to require students to go to independent assessment and counseling services before enrollment in proprietary school programs.<sup>100</sup>

At the Federal level, some student disclosure requirements have been in place since 1979 under HEA. These require schools to provide information on financial aid and various institutional policies and charges to enrollees and prospective students, upon request. In addition, institutions that advertise job placement rates must make available data on employment and graduation statistics.<sup>101</sup> Past efforts to apply graduation and placement rate disclosure requirements to traditional higher education institutions have been vigorously opposed by the higher education establishment. Most recently, efforts to require disclosure of graduation rates of athletes at colleges and universities with athletic scholarship programs have been opposed by the American Council on Education and the National Collegiate Athletic Association, claiming that "graduation rates can be misleading because students may not graduate for a variety of reasons, from a money shortage to a school transfer." Nevertheless, such a requirement recently passed the Senate in S. 590 and the House in H.R. 1454.

As part of the default reduction initiative, the ED recently published regulations requiring all vocational schools, regardless of default rate, to compile and disclose consumer information, including program completion and job placement data to all prospective students. Since many community and junior colleges offer nondegree vocational programs, they are required to comply with this regulation and have been particularly vocal in their complaints about it.<sup>102</sup> Vocational schools must also provide this information to the ED, which has announced that it intends to compile and disseminate the information. ED also intends to further publicize the currently existing toll free consumer "hotline" for students receiving Federal aid. One further step that could be taken by the Federal Government would be for the ED to provide assistance to States to develop publications providing this consumer information and disseminating it to prospective proprietary school students.

The real problem with this consumer protection approach is that it assumes a particular kind of student consumer. The model appears to be

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<sup>100</sup> *Arizona Republic; Proprietary School Issues; and An Update of Proprietary Education.*

<sup>101</sup> 34 C.F.R. 600.41-45.

<sup>102</sup> The proprietary sector has expressed some concern that the specifications for calculation of placement rates make them appear misleading low, but none of the accrediting groups or school associations have urged repeal of the requirements.

middle-class parents who review college catalogs in the same way they read consumer reviews before making a major domestic purchase. This, however, may bear faint resemblance to a proprietary school enrollee or potential enrollee, who may be an unemployed high school dropout, who may mistrust information disseminated by public agencies, and may be unlikely to read the many pieces of information given him or her by the school at the time of enrollment. Thus, while the information arguably should be made available for the student consumer who is sophisticated enough to use it, such disclosure requirements are unlikely to have a major impact on the problems of inappropriate recruitment and admissions.

An alternative that still focuses on the student is to put more emphasis on support services to keep students in the programs they select. Most accrediting agencies expect schools to have attendance programs, such as calling students after a particular number of absences or having students sign attendance agreements. This is, in part, because of the need for strict observance of attendance standards to continue to qualify students for federal assistance. However, none of the accrediting agencies require schools to have more extensive student support services, such as counseling, or assistance with social services, or provision of day care. Relatively few proprietary schools provide these support services.<sup>103</sup>

Proprietary school representatives are willing to admit that problems such as the lack of day care are often a contributing factor to student dropouts. This is also true for students in traditional higher education institutions, some of which have become concerned about the need for more active retention efforts. In the proprietary sector, such programs are less likely to be initiated unless there is some financial incentive to do so. Currently, relatively few resources are available from the schools, State agencies, or the Federal Government to provide services to disadvantaged postsecondary students.<sup>104</sup>

## REFUND POLICIES

The final approach to improving recruitment and admissions is to change the incentive structure. Schools may need an incentive to retain, graduate, and place students, not just to enroll more and more. As the New York State education department report argues, the problem may lie in the fact that current student aid policies are structured so that the "profit is not in having

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<sup>103</sup>*Proprietary Schools.*

<sup>104</sup>The Higher Education Act does authorize several small programs to provide special services to disadvantaged students to improve their access and success in postsecondary education, i.e., the so-called TRIO programs authorized by title IV.

successful students but in enrolling as many students as possible irrespective of whether the students are able to do well in the program."<sup>108</sup>

Aside from totally changing the nature of student financial assistance, suggestions to change the incentive structure usually focus on revisions in the payment schedule for student aid and on refund policies. Current Federal aid disbursement provisions require multiple disbursements for students in longer programs (over 6 months). As part of the efforts to curb default costs, P.L. 101-239, the Student Loan Reconciliation Amendments, require multiple disbursement of Stafford and SLS loans, with the second payment not to be made before the halfway point of the loan period, as well as a 30-day delay in SLS loan disbursement for first-year students. ED has also proposed that disbursement of all loans to first time borrowers be delayed for 30 days. These provisions are all designed to provide an incentive for schools to keep students enrolled in order to receive the aid funds and appear to be based on the assumption that dropouts occur most frequently in the early part of these programs. In fact, there is no general information on when most dropouts occur. Some proprietary associations claim dropouts occur fairly uniformly throughout the length of the programs.

A more extensive regulatory change along these lines would be to require monthly disbursement of aid funds or perhaps to have prorated disbursements with the final payment only after successful completion of the program. Since aid is used for subsistence as well as tuition and fees, such a change would require separation of aid payments into tuition portions and those that students receive to assist in other costs of attendance, such as transportation and living expenses.

As an inducement to schools to keep students in school, a prorata refund requirement has also been suggested. Current Federal regulations rely on accrediting bodies to determine and enforce fair and equitable refund policies.<sup>109</sup> Although there are some variations in the calculations, all of the proprietary school accrediting agencies have standards for refunds that require some, though not absolute, proration up to 50 percent of the program. This includes some minimum period, most commonly the first week, when the entire tuition is refunded.

States that have standards in this area usually follow the accrediting agency rules. The idea of prorata refunds as a device for improving student retention and discouraging inappropriate recruitment and admissions is not a new one. It was first proposed in the FTC rule in the late 1970s. Traditional higher education institutions do not follow prorata refund procedures and have strongly opposed its imposition. Proprietary schools have therefore argued that it is inequitable to apply such a standard only to their

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<sup>108</sup> *Proprietary School Issues*.

<sup>109</sup> 24 C.F.R. 602.

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sector. Generally, postsecondary schools argue that they have start up and fixed costs that do not vary based on the number of students in any particular class and that would not be recovered if a strict prorata policy were required. Proprietary schools have also argued that current policies already provide incentives for retention since students drop out at all points in a program and not just at the beginning or the end.

The Department of Education's new default regulations effectively require schools with default rates over 20 percent to adopt a prorata refund policy for guaranteed student loans only. In addition, ED is proposing additional legislation that would require schools with default rates over 30 percent to apply these prorata refund provisions to all types of title IV aid for students who withdraw in the first half of the program. This would not be a major change from current school policies as required by accrediting agency standards. Experience with the impact of these new default regulations may help determine whether prorata refund provisions, applied, perhaps, to all institutions with high dropout rates, would have a beneficial impact on recruitment and admissions practices.

## CHAPTER 6 CONCLUSIONS

Given these efforts and options, is the current regulatory structure adequate? First, we must recognize that no regulatory structure can prevent all fraud and abuse. That is no more likely for student aid programs than it is for advertising. At most, the regulatory structure can increase the likelihood fraud and abuse will be detected and perhaps reduce the incentives to abuse the system.

Second, to accomplish Federal policy objectives requires Federal regulation. Thinking of the regulatory structure as a triad may be misleading and inhibit the Federal Government from taking needed actions. While accrediting bodies and State agencies exist and do impose requirements on proprietary schools, they do so for their own purposes and not to protect the Federal investment in this sector. They also do so inconsistently and not uniformly across different types of schools and in different States. If the Federal Government is concerned about standards in the proprietary school sector, and about insuring that student aid goes to provide access to a quality education and training program, it may have to establish its own standards. To substantially enhance the Federal regulatory role, monitoring and enforcement resources and initiative at ED would also have to significantly increase.

Finally, the current system of postsecondary education, regardless of the level or institutional sector, often may not ensure a good match between students and schools. Given that fact, and a continued commitment by Congress to access (even if that means the opportunity to try and fail), student aid policies need to be reassessed in terms of the extent to which they allow students the opportunity to try again.

As the previous chapters have indicated, considerable regulation of postsecondary education institutions already exists. Efforts are also currently being made in all arms of the "triad" to tighten controls. Many of the problems and the regulatory responses concerning postsecondary institutions that participate in Federal student financial aid programs concern all postsecondary institutions, not just proprietary schools. Where the concerns and controls are specific to the proprietary sector, we have tried to make that clear.

Accrediting groups are making efforts to monitor their schools more closely on financial issues, and to look at questions of outcome assessments and admissions standards in order to improve program quality and the chances of students they enroll for success. Many States are attempting to improve their oversight of schools as well as to take a more active role in providing students with consumer information. At the Federal level, the ED has announced increased attention to monitoring and enforcement of current



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requirements, and new regulatory standards for a particular subset of schools with high default rates.

There are also a number of additional options that could be considered. Accrediting groups, for example, could clearly do more in the area of overall assessment of the need and value of training in certain fields, particularly in relation to costs. States could initiate tuition recovery plans and develop more systematic collection and dissemination of student consumer information and school and program comparisons.

At the Federal level, improvements could be made in a number of areas: stricter certification requirements, such as suggested in the IG reports, perhaps even including the imposition of something like an 85-15 rule for maximum SFA participation; the use of certain quality indicators (high dropouts, low placement rates) as triggers for special monitoring or program reviews; and creation of incentives for retention and completion through multiple disbursements and prorata refunds, either across the board, or for schools with high dropout rates. The possibilities even include cost-containment approaches for postsecondary training in certain fields and/or institutional sectors. The Federal Government could also contribute to better regulation at other levels through assistance to States to provide consumer information, and encourage labor-market surveys as part of the program approval process. Assistance could also be provided to proprietary schools themselves to develop better admissions criteria and to improve the support services to help students stay in school.



# **Why Are We Not Effectively Regulating Proprietary Schools?**

Testimony Before the

Joint Interim Committee on Proprietary Schools

by

**William O. Goodman\***

**Assistant Attorney General  
Assistant Chief, Consumer Protection Division  
Member, Proprietary School Advisory Commission**

October 4, 1990  
Old Supreme Court Room, 310 Capitol Building  
Austin, TX 78701

\*The opinions expressed herein are those of William O. Goodman and do not necessarily reflect the opinions of the Attorney General.

APPENDIX K

## Why Are We Not Effectively Regulating Proprietary Schools?

### I. Is There Really a Problem?

#### A. Yes, most definitely.

The raw numbers are stark, somber and unforgiving:

- Since September 1, 1989, 41 proprietary schools have closed in Texas owing thousands of Texas students anywhere from 2.5 million to 25 million dollars in tuition refunds. The exact numbers are incalculable because of the chaotic state of closed school records. Many have been destroyed and those that remain are so poorly organized as to be unauditale. For a list of closed schools, See Exhibit 1.
- Given current Department of Education policy, the fact that a student borrower was unable to complete his education because of a school closing is not a recognized defense to the collection of a GSL loan. The fact that Mary enrolled on a Monday in a 600 clock hour private security guard course and the school closed the following Friday does not excuse Mary from paying back the more that \$5,000 she borrowed on Monday. For more on this outrageous and totally unconscionable federal policy, please see the "Paradox of the GSL Program-Let the Buyer Beware" below.
- Unless the students who attended the 41 closed schools pay back their student loans they will be effectively foreclosed from ever being able to borrow for another education. Likewise their chances of financing a car or a house are substantially diminished.
- Of the 342 proprietary schools that remain in Texas, 213 are currently operating with expired certificates of approval. Although required by statute, 54 proprietary schools are operating without surety bonds.
- For the last two fiscal years (Sep - Aug) proprietary schools in Texas generated 485 million dollars in tuition revenues from loans made by the Texas Guaranteed Student Loan Corporation. Neither loans from other guarantee agencies nor grants from the federal government are represented in this figure. Total gross tuition income is unknown. During this period of time, the Division of Proprietary Schools and Veterans Education (DPSVE) had an operating budget of approximately 1.5 million dollars.
- For the last two fiscal years the Texas Guaranteed Student Loan Corporation guaranteed 214,862 loans to students attending proprietary schools in Texas. During this same period of time the DPSVE had a total professional staff ranging from 7-13. Expressed as a ratio, the DPSVE had 1 staff member for every 18,527 loans guaranteed by TGSCLC.
- During the period from calendar year 1985 through 1989 the number of proprietary schools in Texas approximately doubled, growing from 167 ± to 383 ±.
- As of September 30, 1990, the total dollar amount of student loans in default for Texas proprietary school students stood at \$220,728,333.74.

## II. What Are the Causes of This Mess?

- Regulatory responsibility is divided among at least 3 different state agencies.
- The state agency charged with primary responsibility for regulation, TEA, is woefully underfunded and cannot possibly cope, given present funding levels, with the sea of federally insured dollars that annually flow to proprietary schools.
- The policy makers in the Department of Education charged with responsibility for administering the Guaranteed Student Loan Program (GSL) have wholly failed to adopt and or implement the safeguards that are necessary to prevent abuses from occurring in the private-for-profit school industry with respect to the GSL program. As a result of their near willful failure to act, countless thousands of students have been victimized by unscrupulous proprietary school owners.
- Congress has been unable or unwilling to face reality and enact legislation that is needed to structurally reform the GSL program so as to make it work as originally intended. If anything, Congress has made matters worse for student-consumers by exempting GSL loans from the protection afforded by the Federal Truth in Lending Act. By so doing, Congress has made it difficult if not impossible for a student to raise valid defenses to the collection of student loans which range from fraud to forgery.

## III. What, If Anything, Can the Texas Legislature Do To Fix the Problem?

The Texas Legislature cannot "solve" the problems of proprietary schools anymore than it can solve the problems inherent in the Savings and Loan industry. The ultimate solution must come from Congress through reform of the GSL program. The Texas Legislature CAN, however, take positive steps to ameliorate the suffering of many future proprietary school students. I recommend the following:

- Provide increased funding to the DPSVE so that it will have sufficient resources to enforce the Proprietary School Act. This can be done either by returning the Division to general appropriations or significantly increasing the fees it charges schools or a combination of both.
- Consolidate the regulation of all proprietary schools, including beauty, barber, cosmetology, private security and others, into the Texas Education Agency, DPSVE.
- Abolish the maximum bond limitation of \$25,000. In order to insure that schools are financially accountable to students for unearned tuition, the bond amount should be expressed as some ratio to gross tuition revenue. The use of such ratios (capital and surplus as a percent of unearned premium) is common in the regulation of insurance and the Legislature would be well advised to consult with the State Board of Insurance on formulation of the proper number.
- Replace the statutory requirement that a "school (should be) financially sound and capable of fulfilling its commitments for training" with explicit and objective financial criteria including among others: minimum capital and surplus requirements and minimum ratios between unearned tuition and capital and surplus similar to those adopted by the Legislature with respect to the regulation of insurance companies. Schools should be expressly prohibited

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from carrying unearned tuition as a current asset and should be required to carry the item as a current expense. Current assets should be required to exceed current liabilities by a ratio in excess of 1 to 1.

- Require schools having gross tuition income exceeding \$25,000 to submit audited financial statements together with the previous two years federal income tax returns.
- Make the school owner, if an individual, or the majority shareholder, if a corporation, personally liable for the payment of any unpaid tuition refunds. Unearned tuition, being fiduciary funds, should be treated in the same fashion as unpaid FICA and withholding taxes.
- Make the school director personally liable for the payment of any unpaid tuition refunds.
- Declare the failure to pay a tuition refund a Deceptive Trade Practice.
- Make the willful failure to pay a tuition refund a criminal offense bearing the same penalties currently applied to those who convert fiduciary funds to their own use.
- Prohibit proprietary schools from accepting as full or partial payment for tuition and fees any proceeds from any purchase money loan, including guaranteed student loans, which do not contain the disclosures required to be made by the Federal Trade Commission as set forth in 16 CFR § 433.1 et seq.

#### **IV. The Paradox of The Guaranteed Student Loan Program - Let the Buyer Beware**

"I thought the federal government was supposed to help me - not hurt me!

-----Comments of an anguished proprietary school student upon learning he was expected to repay his entire loan balance of \$3,500.00 after attending school for only 3 days.

". . . a student who borrows under the GSL program from a third party lender remains responsible for repaying the loan even if the school fails to provide the services promised to the student. . . .

-----Letter from the U.S. Department of Education to the Texas Attorney General's Office regarding the liability of students who attended Texcel in Houston when it closed.

##### **A. A Little History**

On December 10, 1975, I shared my concerns regarding the proprietary school industry and the administration of what was then known as the Federally Insured Student Loan Program (FISL) with members of the United States Senate in testimony before the Committee on Government Operations. Sadly, those comments are as appropriate now as they were 15 years ago. I offer the Committee a few brief excerpts from that testimony:

"As a result of the enactment of the FISL program, significant numbers of young people were able to pursue a college education, receive degrees, find jobs and

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ultimately become productive, tax paying members of society and share in its manifold benefits.

But, for many students who because of background, aptitude, desire, or any number of reasons chose vocational training at private-for-profit business or trade schools, the results are often tragically different.

Instead of finding employment many of these youngsters found themselves heavily indebted to the Federal Government for an education that they either did not receive or one which was of such uniform poor quality as to be of little or no value in obtaining the jobs that were so frequently promised upon enrollment.

These students, rather than becoming the beneficiaries of the FISL program, became its unwitting victims. They became easy prey for an all too statistically significant number of knowledge hucksters whose deceptive and fraudulent business practices were directly subsidized by the Federal Government through the U.S. Office of Education.

The FISL program, in the case of proprietary education, all too frequently served to create and enrich a new leisure class of promoters and highbinders at the considerable expense and suffering of a class of students who were and are least able to afford it."

# **1. The Historical Role of the Texas Attorney General's Office in the Development of the FISL Program**

The issue then (1975) as now was the alarming growth of unpaid tuition refunds owed to proprietary school students and the complete refusal of the federal government to honor defenses available to students under Texas law with respect to the collection of FISL loans.

In a letter to Secretary of HEW, Caspar Weinberger, dated March 10, 1975, Texas Attorney General John Hill succinctly stated the problem:

"It is my understanding that the present policy of the Office of Education is to collect on these notes regardless of any cognizable legal defense that the student may assert vis a vis the school or the lender or both. I have also been informed that while the Office of Education has been aware for some time of the refund problem in Texas it has directed most of its collection efforts toward the individual students and in so doing has neglected to assert its right of recovery against the offending proprietary schools who are in many instances legally responsible for all or a part of the student's indebtedness to the federal government."

As a result of a series of letters from Attorney General Hill to Secretaries Weinberger and Matthews arguing the legal case of student defenses under Texas law, the Department reversed its position and in August of 1975 announced that it would indeed honor valid defenses available to students under Texas law, upon the assignment by the student of his rights against the school or lender. This policy was ultimately codified in 34 C.F.R. § 682.518. (The Hill Rule)

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## 2. The Feds Rethink Their Position Regarding Student Defenses

Faced with mounting losses in its proprietary school loan portfolio and fearful that significant numbers of lenders might withdraw from the program, the Department of Education in 1981 (the successor agency to the Office of Education) began to doubt the wisdom of its decision to honor valid legal defenses asserted by students against the government. In the case styled *United States v. Griffin*, 707 F.2d 1477 (1983) the government ignored its own rule regarding student loan defenses and abrogated its agreement with the Attorney General of Texas arguing successfully in a motion for summary judgment that a student had no right to raise defenses to the collection of a federally insured student loan.

The case was reversed on appeal. The court held that the Department could not ignore its own regulation, commenting:

"Indeed, the policy (honoring student defenses) is one of fairly long standing. Section 682.518 merely codifies a policy proclaimed by Secretary of Health Education and Welfare Weinberger, and Commissioner of Education Bell, in a series of letters to the Attorney General of Texas in 1975 and 1976. Those letters made clear that OE intended to assert against students rights no greater than those of any other holder of the loan."

## B. The Current Position of the Department of Education Regarding Student Loan Defenses

For all practical purposes the Department of Education by the early 1980's got out of the business of directly guaranteeing student loans and left that job principally to state guarantee agencies such as the Texas Guaranteed Student Loan Corporation. The Department primarily acts as a reinsurer of Guarantee agency loans. Even though it no longer makes direct loan guarantees it retains ultimate authority for the supervision of the program. Its rules and regulations and interpretations thereof are binding on state guarantee agencies.

The current policy of the Department is expressed in a letter dated November 30, 1989 from William L. Moran, Director, Student Financial Assistance Programs to Rich Tomlinson, Assistant Attorney General and Director of the Houston Regional Office of the Consumer Protection Division. Please see Exhibit 2.

The letter was in response to a previous letter by Tomlinson putting the Department on notice of the fact that Houston's Broussards Schools, aka Texcel which had closed in September of 1988, owed hundreds of thousands of dollars in student refunds. The letter made two points:

- The HILL Rule regarding the honoring of student defenses does not apply to loans guaranteed by state guarantee agencies, but applies only to loans directly guaranteed by the federal government (which as a practical matter rarely, if ever, are made anymore).
- "As a legal matter, however, a student who borrows under the GSL programs from a third party lender remains responsible for repaying the loan even if the school fails to

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provide the services promised to the student' unless an origination relationship exists between the lender and the school. "To our knowledge, such a relationship has not been shown to exist with regard to these loans." As a practical matter, given the Department's interpretation of an "origination relationship" it is virtually impossible to establish one short of showing that the lender actually participated in or had actual knowledge of the activities of the school.

### **C. The Department of Education Has Been Grossly Negligent Regarding the Certification of Proprietary Schools**

Although the Department of Education no longer is in the direct guarantee business it must nevertheless pass on the eligibility of schools to participate in state loan guarantee programs. One of its most important responsibilities in this regard is to pass muster on a school's financial capability. In a scathing indictment of its own agency, the Office of Inspector General concluded that "the Department's financial analysis certification procedures were not adequate to protect either the students' or the government's financial interests." See Exhibit 3.

In light of its poor performance, it is infuriating, if not in fact dishonest, for the Department to suggest as it did in the letter to Tomlinson that "We encourage students who do not receive what they pay for from a school to vigorously pursue their remedies against the school." In the case of Textet students, following this advice would lead to a fruitless pursuit of the corporation in a no-asset bankruptcy. What the Department failed to mention to Tomlinson was that it had the year before reviewed the financial condition of Textet and pronounced it sound.

### **D. What Every Borrower Should Know Before Entering into a Guaranteed Student Loan**

The execution of a guaranteed student loan note is unlike any other consumer transaction known to the law:

- The identity of the lender, the amount of the loan and the rate of interest are typically left blank at the time the student signs the note. This procedure which is roundly condemned and made illegal in almost every other context is expressly sanctioned by the Department of Education. 34 C.F.R. § 682.205.
- Lenders are permitted to make electronic fund transfers of the proceeds of a guaranteed student loan directly to a school's bank account. Because of this procedure, students are frequently unaware that they have even executed a promissory note let alone that it has been funded.
- The student borrower bears the entire risk of the insolvency of the seller or of the seller's partial or total failure to perform. The lender bears no responsibility for the failure of the seller. In every other consumer transaction, the buyer can assert against the lender whatever defenses he originally had against the seller. See FTC Rule 433 "Preservation of Consumer's Claims and Defenses." 16 C.F.R. § 433.1 et. seq.



Disclosures that are required to be made in every other consumer credit transaction are not required to be made in connection with a guaranteed student loan because Congress has exempted guaranteed student loans from the Truth in Lending Act.

In essence, the Department of Education and the United States Congress have set thirty-five years of state and federal consumer protection legislation on its head. In the guaranteed student loan context the old adage "Caveat Emptor" Let the Buyer Beware has returned with a vengeance.

## V. Why We Need to Treat Proprietary Schools Like Insurance Companies

Given the Department of Education's abysmal failure in weeding out those schools that are not sufficiently capitalized to participate in the Guaranteed Student Loan Program and its insistence that students do not have a right to assert defenses against participating lenders, the issue of proprietary school solvency should be of paramount importance to the Texas Legislature and to the Texas Education Agency.

Solvency is also important because proprietary school contracts are strikingly similar to contracts of insurance in that they are both executory in nature: the buyer's contractual obligation is fully satisfied up front upon the payment of the premium or the tuition while the seller's obligations are spread over time. Long ago when governments first began regulating the business of insurance they acknowledged a simple fact of human nature: there is a great temptation on the part of those entrusted with fiduciary funds to treat those funds as one's own. In the case of insurance companies the temptation was to treat as cash, unearned premium income. Similarly, in the case of proprietary schools, the temptation is to treat tuition income which is unearned at the time of its receipt as an unrestricted cash asset. The solution to this natural inclination with respect to the business of insurance was to require the creation of reserves sufficient to insure that the Company could perform its executory obligation to the policy holder over the life of the contract. No less should be required of proprietary schools. The tuition payers of Texas demand and are entitled to the same level of protection accorded by the laws of this state to those who purchase insurance: that during the life of the contract they get what they pay for.

Report on Tuition Protection Fund,  
Maintenance of Records of Closed Schools  
and  
Bonding for Proprietary Schools Regulated by the  
Texas Education Agency

**TUITION PROTECTION FUND:**

Note . Options are not listed in order of preference.

**OPTION I**  
**Funding Source for Refunds**

The thrust of this option is to convert the use of the fund from a teach-out purpose to a refund purpose. This is similar to that of other states with the exception that this option would pay the school conducting the teach-out for expenses incurred in purchasing textbooks and supplies. Bonding would be eliminated. The current practice is for a school to provide a teach-out without any reimbursement by the fund.

(1) The size of the fund should be increased to \$3,000,000. A report on the funds in other states is enclosed and identified as Attachment A.

(2) Each school would be required to contribute as a condition for issuance of an initial or renewed certificate of approval an amount equal to the highest total program cost charged by the school. Using the present school costs, it would take three years to reach a \$3,000,000 level.

(3) Collections would begin July 1, 1991 and continue until the \$3,000,000 level is reached. Current bonding requirements would be in place for one year or until June 30, 1992.

(4) Assessments would resume if the level dipped below \$2,500,000. If the level exceeded \$3,500,000, dividends would be paid to the school participants in an amount based on the ratio of the amount available to the amount paid in by the school.

(5) The statutory language pertaining to the reimbursement of all expenses to the school offering the teach-out would be replaced with language which would authorize payment from the fund for reimbursement for the cost of textbooks and supplies for the students.

(6) Eliminate the language which restricts payment of refunds to \$25,000.

(7) Eliminate Section 32.39 (f) since students and school owners are adequately protected by the language in subsections (c) and (d). Additionally, interpretation of a significant change in quality is to subjective to ascertain.

(8) Include language which would transfer the student's right to a refund to the administrator if the student's refund is paid from the fund. Require the

APPENDIX L

administrator to attempt to collect the refund amount from the school owner and reimburse the fund

(9) Limit the payment of refunds to those students whose termination date was within 12 months of the claim for a refund from the fund except under extenuating circumstances as determined by the administrator.

(10) Require attempt to arrange teach-outs with private industry and community colleges when one cannot be arranged with a proprietary school

(11) Require the issuance of a certificate of completion to a student from the school providing the teach-out

(12) Require the State Board of Education, the Central Education Agency, and the Proprietary School Advisory Commission to determine whether the size of the fund needs to be increased or decreased and report to the legislature.

#### OPTION II Funding Source for Teach-outs

The thrust of this option is to maintain the original intent of the fund. The intent is to be fiscally responsible towards the fund and to supply the Agency with funds to continue the operation of the failed school through a teach-out at another school or through administration by the Agency. This operation would not have the ability to enroll new students.

(1) The size of the fund should be increased to \$1,000,000 with the current bonding requirements. If the fund is used for teach-outs as opposed to refund payments, the cost to the fund would be significantly less.

(2) Include a requirement that the agency comply with the following:

a. attempt to arrange a teach-out in a school in the area offering a similar program and make payment from the fund for the cost of textbooks and supplies; if that is not possible, the agency must,

b. attempt to arrange for a teach-out in the facilities of the closed school and the fund would pay the expenses of the teach-out via an agency administered teach-out.

(3) Each school would be required to contribute as a condition for issuance of an initial or renewed certificate of approval an amount equal to one-half of the highest total program cost charged by the school. Using the present school costs, it would take two years to reach a \$1,000,000 level.

(4) Collections would begin Jan 1, 1992 and continue until the \$1,000,000 level is reached.

(5) Assessments would resume if the level dipped below \$750,000. If the level exceeded \$1,250,000, dividends would be paid to the school participants in an amount based on the ratio of the amount available to the amount paid in by the school

- (6) Eliminate Section 32.39 (f) since students and school owners are adequately protected by the language in subsections (c) and (d). Additionally, interpretation of a significant change in quality is to subjective to ascertain.
- (7) Include language which would transfer the student's right to a refund to the administrator if the student's refund is paid from the fund. Require the administrator to attempt to collect the refund amount from the school owner and reimburse the fund
- (8) Require attempt to arrange teach-outs with private industry and community colleges when one cannot be arranged with a proprietary school
- (9) Require the issuance of a certificate of completion to a student from the school providing the teach-out
- (10) Require the State Board of Education, the Central Education Agency, and the Proprietary School Advisory Commission to determine whether the size of the fund needs to be increased or decreased and report to the legislature.

### OPTION III

#### Funding Source for Teach-outs and Refunds

The thrust of this option is to present a compromise position of Option I and Option II whereby the fund will be increased, bonding will be eliminated, and the interest of both the student and the school owner will be addressed thought the payment of refunds and payment of teach-out expenses.

- (1) The size of the fund should be increased to \$2,000,000.
- (2) Each school would be required to contribute as a condition for issuance of an initial or renewed certificate of approval an amount equal to two-thirds of the highest total program cost charged by the school. Using the present school costs, it would take two years to reach a \$2,000,000 level.
- (3) Collections would begin July 1, 1991 and continue until the \$2,000,000 level is reached. Current bonding requirements would be in place for one year or until June 30, 1992.
- (4) Assessments would resume if the level dipped below \$1,500,000. If the level exceeded \$2,500,000, dividends would be paid to the school participants in an amount based on the ratio of the amount available to the amount paid in by the school.
- (5) The statutory language pertaining to the reimbursement of all expenses to the school offering the teach-out would be replaced with language which would authorize payment from the fund for reimbursement for the cost of textbooks and supplies for the students.
- (6) Eliminate the language which restricts payment of refunds to \$25,000 but include a requirement that the agency follow this sequence:

a. attempt to arrange a teach-out in a school in the area offering a similar program and make payment from the fund for the cost of textbooks and supplies; if that is not possible, the agency must,

b. attempt to arrange for a teach-out in the facilities of the closed school and the fund would pay the expenses of the teach-out via an agency administered teach-out; if that is not possible, the agency must,

c. pay refunds to students in accordance with the provision of Section 32.39 and 32.91 of the Texas Education Code.

(7) Eliminate Section 32.39 (f) since students and school owners are adequately protected by the language in subsections (c) and (d). Additionally, interpretation of a significant change in quality is to subjective to ascertain.

(8) Include language which would transfer the student's right to a refund to the administrator if the student's refund is paid from the fund. Require the administrator to attempt to collect the refund amount from the school owner and reimburse the fund

(9) Limit the payment of refunds to those students whose termination date was within 12 months of the claim for a refund from the fund except under extenuating circumstances as determined by the administrator.

(10) Require attempt to arrange teach-outs with private industry and community colleges when one cannot be arranged with a proprietary school

(11) Require the issuance of a certificate of completion to a student from the school providing the teach-out

(12) Require the State Board of Education, the Central Education Agency, and the Proprietary School Advisory Commission to determine whether the size of the fund needs to be increased or decreased and report to the legislature.

#### *MAINTENANCE OF RECORDS OF CLOSED SCHOOLS:*

This proposal is made under an idealized best-case scenario, but an examination of this proposal should be made by the full committee in light of the Texas Education Agency's limited staff/funding and increased responsibilities.

(1) Authorize the agency to remove the student records of a closed school within 30 days of the school's closing

(2) Require the agency to maintain the records and provide transcript service at a minimal cost to the student or other individual requesting a transcript

(3) Maintain records for four years

(4) Ensure adequate funding is available for this operation

Tuition Protection Fund, cont'd...

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**BONDING:**

- (1) Bonding should be an option available to schools who do not wish to participate in the protection fund if the school is able to provide a bond in the amount equal to the maximum amount of refunds due in the event the school closes.
- (2) The current bonding structure would be in effect for one year after the recommended changes to the protection fund have been in effect.
- (3) Bonding requirements of other states is enclosed and identified as Attachment B.

Submitted by Paul Ellis and Dee Bednar

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Tuition Protection Fund, cont'd...

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## BONDING INFORMATION FROM OTHER STATES

NO BOND	\$2,500	\$2,500-\$10,000	\$20,000	\$25,000	\$5,000-\$25,000
REQUIRED		MINIMUM			
5	1	1	4	2	1

\$10,000-\$25,000	\$1,000-\$50,000	\$5,000-\$50,000	\$50,000	\$10,000-\$60,000
RANGE	RANGE			
1	5	3	1	1

\$100,000	\$5,000	\$7,500	\$10,000	BOND REQUIRED	STUDENT PROTECTION
	MINIMUM	MINIMUM	MINIMUM	AMOUNT UNKNOWN	FUND
1	5	1	11	4	4

STUDENT TUITION PROTECTION	WASHINGTON STATE	FLORIDA	OHIO	MARYLAND	CONNECTICUT	TEXAS	CALIFORNIA
NUMBER OF SCHOOLS REGULATED	116	700	350	192	70	647	2,250
SIZE OF FUND	\$1,000,000	Proposed No limit set as of this date	Proposed \$1,000,000	\$1,000,000	\$2,000,000	\$250,000	\$1,000,000

Tuition Protection Fund, cont'd...page 7



**JOINT INTERIM COMMITTEE**  
**ON PROPRIETARY SCHOOLS**  
 (Consolidation Issue)

**CONTEXT**

Within the state of Texas there are hundreds of private for-profit schools offering a wide range of career specific training and education. It requires considerable specialized knowledge to properly regulate these diverse and occupation specific institutions and programs. As a result of the variety and high degree of specialization involved in the training a decentralized and fragmented regulation system has evolved. There is extensive scrutiny of programs by the various state agencies and state licensure boards. The programmatic analysis includes examination of curriculum and standards leading to the award of certificates, licenses, and degrees. In many cases (except for those institutions regulated by the Texas Education Agency) the state agencies rely upon regional or national accrediting bodies, recognized by the U.S. Department of Education, to analyze and determine the institutional suitability of proprietary institutions. Recent events regarding; 1) the proliferation of proprietary schools within Texas, 2) the significant increase in student loan default, and 3) the alarming increase in the number of economic failures in the proprietary school sector leaving students untrained and in debt has engendered a concern among the committee members with respect to effective oversight and regulation of these schools.

**STATEMENT OF PROBLEM**

The significant increase in proprietary school failures and student defaults has caused concern about the current fragmented system of state oversight of proprietary institutions. The problem is to develop a consolidated form of proprietary school oversight/regulation that can; 1) reduce school financial failure through improved scrutiny of institutional financial stability and administrative capability, 2) improve the state's proprietary school database and enhance the process by which the information is shared among state agencies, and 3) provide the public with consumer information, promote the student completion of programs of study, and ensure employability.

**DESIRED OUTCOMES**

- Reduce the negative effect of school failure on the student
- Reduce the default rate
- Increase the completion (graduation) rate
- Ensure employability for graduates
- Improve the effectiveness of state oversight capacity
- Improve student satisfaction

**APPENDIX M**

## Option One

Consolidation -- where all licensing/regulation/oversight authority is vested in an existing agency.

## Advantages:

- reduction of duplication of reporting
- cost would be within reasonable limits
- legislature would find this acceptable

## Disadvantages:

- current manpower at any one agency is not sufficient to handle the volume of work
- time to move, hire, or retrain personnel would be prohibitive

## Option Two

Dual oversight -- where schools would go through separate agencies for institutional certification (e.g. general financial stability and administrative capability) and programmatic approval (curriculum).

## Advantages:

- Very feasible since most elements are already in place
- Cost would be within reasonable limits

## Disadvantages:

- Potential for duplication of reporting
- Potential for difficulties in sharing information in an effective fashion

## Option Three

Coordination of Agencies -- where existing set of agencies with regulation/licensing/oversight responsibility work closely to coordinate activities to close loop holes and avoid duplication.

## Advantages:

- Cost would be within acceptable limits
- Causes the least amount of change
- Would be acceptable to the legislature

## Disadvantages:

- Cost to develop information sharing vehicle
- Potential for duplication

## Option Four

Expand PSAC -- to include representation of those institutions not currently regulated by TEA

## Advantages:

--Low additional cost

## Disadvantages:

--Potential exists for lack of communication among agencies  
 --Potential for duplication of reporting

## Option Five

Conduct a Study -- to determine if there are common agendas among the existing regulatory/licensing/oversight agencies. If there are commonalities among the agencies use then this information should be the foundation of a system to coordinate information and regulation. If no common standards or procedures exist then study the agencies and suggest some commonalities that might be used as a basis for a coordination vehicle. The expected outcome of this study would be the creation of a hybrid division drawing from resources currently at the disposal of the individual agencies.

## Advantages:

--Increased knowledge about how the various agencies operate  
 --Increases potential for an integrated approach to the problem

## Disadvantages:

--Time is needed to conduct the study (the committee would have to reconvene at some future date)  
 --Cost of the study would be incurred prior to any tangible action

## CRITERIA

Feasibility (in terms of time and manpower)

Cost

Student Protection (regarding schools that fail without providing the training)

Reduce duplication of reporting for the institutions

Acceptability to the legislature

Consumer protection (information available to allow for informed choice)

Institutional Effectiveness (completion rates, placement rates, and default rates)

**Texas Guaranteed Student Loan Corporation  
BACKGROUND**

**Creation and Powers**

The Texas Guaranteed Student Loan Corporation (TGS LC) was created by the 66th Texas State Legislature in 1979. The corporation was created as a public nonprofit entity to administer the federal guaranteed student loan program in Texas and to guarantee student loans under the terms of that program. The corporation does not make any loans itself, it guarantees loans made by financial institutions and the Texas Higher Education Coordinating Board against death, disability or default of the borrower.

TGS LC is not a state agency and receives no appropriations of state funds. The corporation is subject to the Texas Sunset Act however. In addition, an attorney general opinion found that the TGS LC is subject to the Texas Open Records Act because of an initial appropriation of lender's allowance funds from the Texas Higher Education Coordinating Board made to help establish the corporation. TGS LC is also subject to the Open Meetings Act.

The original national guaranteed student loan program was created by the federal 1965 Higher Education Act as a way of removing financial barriers to higher education opportunities. Under the loan guarantee program, the government initially encouraged private lenders to make loans available to students by providing an 80 percent guarantee that the lender would be reimbursed should the student not repay the loan. Other incentives to lenders to make capital available for student loans included a federal interest subsidy that made the return of the loans attractive and the existence of secondary market agencies whose primary purpose was to purchase guaranteed student loans from lenders. Secondary markets provided smaller lenders with needed liquidity of their assets. However, even with these incentives, the participation of lenders in the program did not keep up with the demand for student loans. It was determined that the high degree of centralization in the federal student loan insurance program was hindering its growth. Lenders had to wait too long to have a claim for reimbursement on defaulted loans processed and often

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**TGSLC Background**  
**November 20, 1990**  
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had claims rejected. Consequently, the Higher Education Act Amendments of 1976 created financial incentives to states to create guarantee agencies which would administer the guaranteed student loan program at the state level. These incentives included federal advance funds to help establish the agency, 100 percent reinsurance on all defaults for the first five years of the program, and administrative cost allowance funds. In addition, the lender's guarantee was increased to 100 percent. As a result of these financial incentives being offered, the Texas Legislature commissioned an interim study conducted in 1978 by the accounting firm of Touche Ross & Co. The study evaluated alternatives for a student loan guarantee program in Texas and the creation of TGSLC in its present form was recommended by that study.

Since the incentives were offered to set up state guarantee agencies, all fifty states, the District of Columbia, Puerto Rico, Guam, American Samoa, North Marianas, and the Trust Territories have established a guarantee agency or designated one of two national private nonprofit guarantee agencies as their guarantor. Twenty five states and Puerto Rico have designated a state agency to be the guarantee agency, 18 states, including Texas, have established nonprofit corporations as guarantee agencies, and 7 states and the District of Columbia have designated one of the national private guarantee firms (Higher Education Assistance Foundation or United Student Aid Funds).

Currently, the guaranteed student loan program represents the largest student financial assistance program in the state, as well as in the nation. TGSLC guarantees the principal and accumulated interest to private lenders for each eligible student loan they make. Participation in the program and loans guaranteed have grown steadily since TGSLC was created. The drop in the number of lenders participating in the program in 1987 is due, in part, to an increase in Texas bank failures and mergers, and to smaller lenders dropping out as large "open-door" lenders have entered the student loan market.

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### **Policy-making Structure**

The board of the Texas Guaranteed Student Loan Corporation is composed of 10 members. Nine of these are public members-including one student-appointed by the governor with the advice and consent of the senate, and serve for six year terms. The Comptroller of Public Accounts is a statutorily designated member of the board.

### **Funding and Organization**

The headquarters and only office of the Texas Guaranteed Student Loan Corporation is located in Austin, as required by statute. The corporation employs approximately 400 full time employees. The employees are not state employees and the corporation has its own retirement and benefits programs.

When TGSLC was created, the Texas Legislature appropriated \$1,500,000 to it from the federal special lender's allowance fund at the Coordinating Board. This fund had a balance at that time of over \$4 million and represented earnings from the state's direct student loan program. This was a one-time appropriation designed to provide the total funds necessary for TGSLC to become a self-sustaining entity.

In addition to this start up appropriation, TGSLC was eligible to receive two types of federal advance funds under sections 422(a) and 422(c) of the Higher Education Act of 1965. These advance funds were made available by the federal government for the purposes of helping regional guarantee agencies get established and build up adequate reserve funds. TGSLC received approximately \$10 million in federal advances which have been recalled.

By state law, the TGSLC reserve fund is divided into two accounts: the operating account and the guarantee account. Income to the corporation in the form of insurance premium receipts from students, federal administrative cost allowances, the corporation's share of collections on defaulted loans, and loan servicing fees is deposited to the operating account, from which

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the corporation's operating expenses are paid. The federal advance funds, federal reinsurance receipts, investment earnings and corporate earnings not needed for operations are deposited into the guarantee account. Funds may be withdrawn from the guarantee account for the sole purpose of paying lenders' claims on defaults. TGSLC's board has a policy of maintaining reserves equivalent to 1.5 percent of outstanding loans. This reserve is the guarantee fund balance. Management transfers funds into the guarantee account, according to a financial forecasting model, to maintain the proper allowance for defaults.

### **Programs and Functions**

#### **Loan Guarantee Operations**

The main function of TGSLC is to guarantee student loans under the terms of the federal guaranteed student loan program. The guaranteed student loan program consists of three student loan components: the Guaranteed Student Loan Program (GSLP), which is the original loan program created in 1965; the Parent Loan for Undergraduate Students Program (PLUS), created in 1980 to encourage loans to parents of dependent undergraduate students; and the Supplemental Loan for Students Program (SLS), created in 1986 to encourage loans for independent students. From an operational standpoint, TGSLC guarantees loans under the three components in the same way, therefore there is no differentiation among the three in terms of corporate staff, income, or expenses.

The loan guarantee function operates as follows. First a student undergoes a financial needs assessment processed by a national firm, which forwards the results to the school financial aid office indicated by the student. An overall determination of the student's need is made by a financial aid officer who then prepares a financial aid package for the student, first offering whatever grant or scholarship aid may be available. Student loans are offered as a last alternative to make up the difference between the student's resources, expected work earnings and gift aid, and the expected

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costs of attending the institution. The student completes the loan application and the school certifies that the student is at least a half time student and meets the financial need criteria. The student then takes or mails the application to a participating lender who may accept or deny the application, depending on the lender's own criteria. If accepted, the lender forwards the loan application to TGSLC. TGSLC processes the application on its computer system which has various automated editing checks to see that the application meets all the eligibility criteria and checks to see if the student has ever previously defaulted on a TGSLC guaranteed loan.

When all application requirements are met, TGSLC issues the guarantee and sends a notice of guarantee back to the lender. The loan guarantee processing operates 24 hours a day, employs 16 people, and the current turnaround time at TGSLC to process a guarantee is 48 hours. Then the lender receives the loan application back with the guarantee, he issues a check in the student's name -- after first deducting the loan insurance and origination fees from the loan amount -- and sends the check to the school's financial aid office. The total elapsed time between the student's submission of the application to the lender and the arrival of the check at the financial aid office is approximately seven days. The loan insurance fee is sent to TGSLC and the origination fee is applied to the first federal interest subsidies the lender will receive. For an average \$2,000 student loan, the student would receive \$1,855 after the insurance fee of \$45 and the origination fee of \$100 were deducted.

### **Preclaims, Claims, and Collections**

This department is responsible for helping lenders prevent defaults on loans, for processing lender claims once a default occurs, and for collecting claims on defaulted guaranteed student loans. Fifty-three people work in this area. The preclaims process is initiated when a lender notifies TGSLC that an account is 60 days past due and files a request for assistance. The preclaims staff contact the borrower and generally



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supplement the activities of the lender in trying to collect the loan payments by making phone calls and sending letters. At 180 days past due, after the lender has issued a demand letter to the student calling in all the loan, the lender may file a claim with TGSLC. The lender must file the claim before the 220th day past due and the average claim is filed at the 210th day. The lender signs over the promissory note and the documented account history which is reviewed at TGSLC. Data is entered into an automated system that checks the claim to verify that all the due diligence procedures have been followed by the lender. If they have, a check is issued automatically to the lender. This process takes from 24 hours to 10 days from receipt of the claim. A new expedited process is being introduced for lenders with historically low claims rejection rates that will reduce the number of TGSLC personnel involved in claims review and allow them to focus more on preclaims and collections activities.

TGSLC may not bill the federal government for claims reinsurance until the 270th day of delinquency, and usually receives the reimbursement around the 330th day of delinquency. Since TGSLC pays the claim to the lender around the 220th day of delinquency, there is a "float period" of approximately 110 days for \$10 to \$15 million which TGSLC must cover with its own funds.

### Secondary Markets

Student loans are unlike any other type of commercial loans that lenders make since they are for relatively small amounts and have very long repayment periods. A student has up to ten years to repay the loan and the repayment period doesn't begin until six months after graduation or leaving school. In addition, there are 19 types of deferments available to students in special categories. For example, loan repayment may be deferred if a student goes to graduate school, joins the armed forces, becomes unemployed or takes parental leave. These deferments prolong the loan repayment period and make handling student loans all the more difficult. Consequently, the Congress established the Student Loan Marketing Association (Sallie Mae) to purchase student

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loans from lenders, thereby providing lenders the necessary liquidity on their investment. Sallie Mae is thus a secondary market for student loans. Sallie Mae is a private corporation, financed by private capital, which received federal fund advances and administrative allowances to help get it established. In addition to Sallie Mae, Texas statutes authorize the creation of local Higher Education Authorities which function as regional "mini Sallie Maes." The authorities are created by the governing body of a city (or cities), usually near a large university, and issue revenue bonds for the purpose of purchasing guaranteed student loans from local lenders. There are eight Higher Education Authorities in Texas. A local lender in Texas then has three possible purchasers of his student loan portfolio: the authorities, Sallie Mae, or any other eligible lender. Many lenders sell their student loans to a secondary market, unless their student loan volume is large enough that they can achieve the economies of scale needed to make holding the loans profitable. Although secondary market agencies are not recognized as eligible lenders in the guaranteed student loan program (they must operate through a designated trustee bank), they must meet the same due diligence requirements of primary lenders and the guaranteed student loans they purchase retain the original guarantee of 100 percent insurance.

#### Lender of Last Resort

The federal guaranteed student loan program statutes require that each state designate a lender of last resort: either the guarantee agency itself; or another eligible lender in the state through an agreement with the guarantee agency. TGSLC was designated the state's lender of last resort by the state legislature in 1985. The lender of last resort provisions require the TGSLC to make a guaranteed student loan to any eligible student "to the extent funds are available" who certifies that no other eligible lender in the state, nor the Texas Higher Education Coordinating Board, is willing to make a guaranteed student loan to that student.

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**Significant Points**

**In summary, concerning TGSLC:**

- \* Trends in other states indicate that the use of nonprofit agencies, like TGSLC, has grown from 10 states in 1985 to 18 states presently while the use of state agencies in the program has decreased from 35 to 25 in the same period. No state has converted a nonprofit guarantee agency into a state agency;
- \* Loan capital available to students increased from \$40 million in 1981 to over \$600 million in 1990 demonstrating lender satisfaction with the program;
- \* The corporation has operated successfully without state appropriations, has built up a loan insurance reserve fund of approximately \$25 million and has not incurred any liability for the state;
- \* Entire elimination of the program would force the federal government to designate a guarantor from another state which would reduce the service and attention to Texas lenders, schools, and students, and would likely adversely affect the lender participation in the program; and

**General Recommendations to the Joint Interim Committee on Proprietary Schools**

Based on TGSLC's involvement with proprietary schools, the following are some general recommendations which would help the administration of the GSLP in Texas.

Until recently, access to GSLs was universally available to all qualified borrowers. However, as a result of unacceptably high default rates among proprietary schools, secondary markets have stopped purchasing GSLs made by lenders to proprietary school students and some lenders, in turn, have ceased making GSLs to these students. This has resulted in a situation in which financial access to the largest segment of

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Texas' postsecondary educational system for a particular group of students is effectively denied. To correct this problem, a level of comfort and confidence must be restored in the lending community concerning the quality of programs and training offered by the proprietary school industry.

Over 60% of the default claims paid by TGSLC to lenders are on GSLs made to proprietary school students. This situation also affects lender confidence in the continued viability of the guarantor of the loans they make. Again, the solution to this problem is insuring that students who choose to attend a proprietary school receive quality instruction and training which results in a marketable job skill, which, in turn, results in repayment of student loans. Requiring proprietary schools to share a portion of the risk by expanding the use for the state's tuition protection fund to include payment of student loan default claims and loan losses would also restore lenders' confidence in both the proprietary school industry and in the GSLP.

All schools should be prohibited from utilizing commissioned recruiters/salepersons as a tool to enroll students. If this practice is allowed to continue, these individuals should be salaried employees and commissions should be based on the completion rate of the students who are recruited.

Currently TGSLC must interact with each and every state commission which regulates proprietary schools, each with its own set of policies, procedures, regulations, and statutory requirements. Centralizing this oversight function in a single agency would aid TGSLC's ability to address the problem of defaults among proprietary schools through better coordination of efforts undertaken by TGSLC and the designated regulatory agency.

Allowing state employees the opportunity to repay their student loans through a withholding plan for those who can financially afford to repay their loans and an emergency relief program for those who, as the result of

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some legitimate hardship, are unable to repay their loans would prevent some GSLs from defaulting.

Insuring that school owners and schools are financially solvent prior to licensing them would have a positive impact. Schools should be required to demonstrate a greater than one to one asset to liability ratio and a total debt to net worth ratio of no greater than three to one. What this means is that for every one dollar the owner invests in his school, three dollars are borrowed.

Currently, a lender is required to inform TGSLC when it receives a refund from a school. In order to insure that the school complies with the federal regulations that requires refunds to be made within 30 days of the student leaving school, the school should be required to notify TGSLC when it makes a refund. Furthermore, any refunds made by a school should be required to be applied to repayment of student loans first, then to personal expenditures and other aid.

Another recommendation which is not specific to the topic of proprietary schools but is certainly a policy issue central to the default debate is the imbalance of loan and non-loan student financial assistance. The ratio of the availability of loan and non-loan aid has virtually reversed itself over the past 10-15 years from 80% Grant and College Work Study and 20% Loan during the mid to late 1970's to 80% Loan and 20% Grant and College Work Study today. To compound this situation, the GSLP is now reserved almost exclusively for low income students. 67% of the GSLs TGSLC guaranteed last year were to students with annual family incomes of less than \$10 000. If, and until, Congress ever changes the focus of the GSLP to an educational loan program for credit worthy borrowers and significantly increases grant programs, loan aid will continue to be the prime source of student aid for poor students and the likelihood of defaults in the GSLP will continue to increase.

Three actions by the State Legislature would help to alleviate this problem. The Legislature can strongly

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endorse and work with the Texas Congressional Delegation to increase funding for Title IV Grant and College Work Study programs and at the state level, the Legislature should approve the Texas Higher Education Coordinating Board's recommendations regarding funding for the Texas Educational Opportunity Grant Program - \$20 million, the Texas Tuition Assistance Grant Program - \$8 million, and the Tuition Equalization Grant Program - \$92 million.

The third action the State Legislature could take which would improve the availability of student financial aid in Texas would be to incorporate into the increased funding for the state programs a comprehensive study and review of the state's student financial aid policies, programs, structure, and delivery system to insure that every available student aid dollar - state and federal - is being effectively and efficiently utilized.

These then are the major "General Recommendations" I would submit to the committee for its consideration based on TGSLC's experience with proprietary schools. If you have any questions or additional input, please contact me.

GCT/dft



Mr. WASHINGTON. Thank you, Mr. McCormick. Mr. Alden?

**STATEMENT OF COMER ALDEN, PRESIDENT, SAN ANTONIO  
COLLEGE OF MEDICAL AND DENTAL ASSISTANTS**

Mr. ALDEN. Mr. Chairman, I appreciate this opportunity to appear before you today to discuss the future of the Higher Education Act.

My name is Comer Alden. I am president of the San Antonio College of Medical and Dental Assistants, which is celebrating its 25th anniversary this year. We have four campuses in Texas—two in San Antonio, one in McAllen, and one in El Paso.

We are currently serving about 600 active students, and our school offers allied health professions on a job entry level, basically medical assistant, dental assistant, but also surgical technician, ophthalmic technician and such as that.

I am convinced that the decisions that you and your colleagues make when you rewrite this important act are extremely important. In fact, I believe the bill you draft will be the most important piece of domestic legislation before this Congress.

The actions you take will have a major impact on our Nation's ability to meet its needs for a skilled work force, and on the ability of millions of individuals to get the kind of education they need to get good jobs and support themselves and their families.

I understand you have held dozens of hearings on the complex issues surrounding student aid. While I would be happy to discuss other aspects of the student aid programs, this morning I would like to focus on one particular problem facing many schools and students.

Today many students are being denied access to Federal student loans for which they are eligible. I imagine most Americans, and perhaps most Members of Congress, assume that under the Guaranteed Student Loan Program any student who is eligible and attending an eligible institution is actually guaranteed getting a student loan.

But that is simply not the case, and it is a particularly serious problem here in Texas. Why is this the case? First, as you know, most lenders sell their loans to secondary markets. Many of these secondary markets, including the giant Sallie Mae, pay less than the full value of a loan when they buy them, thus creating a disincentive to lenders from making loans in the first place.

Secondly, many banks are reluctant to make loans to high risk students. High risk students are more likely to default, and lenders and servicers want to avoid the cost of conduction due diligence measures on delinquent loans.

Third, lenders are paid the same special allowance regardless of the degree of risk or the cost of servicing the loan. In other words, again there is a built-in disincentive for them to serve students who need help the most; those students who the Higher Education Act is supposed to help the most.

And fourthly, State laws and regulations often restrict access by establishing additional requirements for student borrowers attending certain types of institutions and students enrolled in short-term and non-degree programs.



Fifth, guarantee and secondary markets discourage, oftentimes, lenders from making loans to students attending institutions with a certain level of default. As you know, an institution may have a high default rate because it serves high risk students.

The default rate may have nothing to do with the quality of their educational program. Nevertheless, students are denied the opportunity to attend the school of their choice because a guarantor discourages banks from making a loan available.

Sixth, many secondary markets require a minimum average loan size in a loan portfolio before they will purchase the portfolio. This, oftentimes, discourages lenders from making smaller loans. It virtually costs the same amount to process a small loan as it does a large loan. So some banks have decided not to bother with smaller loans. And again, this hurts many students in short-term programs.

This restriction can often lead to ironic results. In a recent article in the Houston Business Journal, Ron Sanders, then the president of the Council of Houston Area Private Schools and owner of International Travel Institute, noticed that he had encouraged students from borrowing large amounts of money that they may well have trouble paying back.

He encouraged them perhaps not to borrow that much. Now, his banks were telling him that the loans are not big enough to bother with. And in his words, "It's a Catch-22."

As I said earlier, the loan access problem has become especially serious in Texas, and it is primarily hitting private career schools. Of the 357 private career schools regulated by the Texas Education Agency, 44 closed between last September and May of this year.

And I have asked Dee Bednar how many of those closures were the direct result of a loan access problem, and I guess we will never know for sure. But certainly, some of them were.

The Association of Texas Lenders for Education, ATLE, is a trade group made up primarily of banks that make 90 percent of their student loans within Texas, and they have issued suggested guidelines for lenders.

I would like to go on record as saying that ATLE has come through like gangbusters, and they are helping many schools—or, potentially will help many schools—and I appreciate what they have done. And their new president is in the audience.

But some of the guidelines concern me. They were designed to minimize risk for the lenders, and that is fine. A banker has to make money. I have no problem with that whatsoever. But as a side effect, they will cause some lenders to discriminate against students enrolled in shorter term programs, such as those offered in most private career schools.

One criterion clearly illustrates the reason for this concern. ATLE recommends that lenders not lend to students at institutions which have an average borrower indebtedness, ABI of less than \$2,500 a student. In many respects that is very reasonable, because you cannot make money off of a small loan.

Many of our students simply do not have to borrow that much, and they are not qualified to borrow that much. At our main campus in San Antonio, for example, the average student loan in-

debtedness at graduation is \$1,850. This practice explicitly discriminates against students who wish to attend shorter-term programs.

I would like to underscore the importance and value of educational programs of up to 2 years in length. It is important to remember that many professions do not require 2 years of schooling, let alone 4.

At the same time, many students cannot afford the luxury of being out of the work force for long periods of time, and we heard that this morning from the students. They need job-specific education in a relatively short period of time, and then they need to get back into the work force.

Now, I hope I have adequately described the problem. But what do we do to ensure that all eligible students have access to loans in order to attend the school that best meets their interests and their needs?

The answer to this question I would like to refer to legislative proposals by the National Association of Trade and Technical Schools, and the Association of Independent Colleges and Schools, AICS and NATTS, and they have been submitted prior to your committee.

Their legislative recommendations would make a number of improvements that would help ensure that students had access. Let me very quickly, before concluding, share three of their suggestions with you.

First of all, we recommend establishing a slightly higher interest rate paid to lenders by borrowers for students who are enrolled in programs of 2 years or less, and borrowers with loan balances of \$10,000 or less. Now, while this would cost the students slightly more, it would provide an incentive for lenders to serve these students.

Second, AICS and NATTS would recommend expanding the non-discrimination provision for creditors to prohibit discrimination based on the type of institution, tax status, the length of the program in which the student is enrolled.

And finally, a lender-of-last-resort program should be part of the designated State guarantor program participation agreement. All of these changes would help ensure that students have access to the help they need.

Mr. Chairman, I would close by asking you to remember that private career schools are an important element in the education of the American work force. They provide the kind of career-specific technical education that American business demands and our economy needs to remain competitive.

They provide the kind of education people need for real jobs. Many of the job fields private career schools train people for are among the fastest-growing occupations, according to the U.S. Department of Labor. The health profession is a good example.

As I am sure you are well aware, the positions in health care for which our school educated students are growing. For 25 years the Higher Education Act has opened doors of opportunity for millions of Americans.

For 25 years, the San Antonio College of Medical and Dental Assistants has opened its doors to prepare thousands of students for rewarding careers. The important decisions you make in the months ahead could well determine whether these doors remain open.

And I thank you.

[The prepared statement of Comer Alden follows:]

Testimony before the  
Subcommittee on Postsecondary Education  
Committee on Education and Labor  
U. S. House of Representatives

by

Comer Alden, President  
San Antonio College of Medical & Dental Assistants, Inc.  
San Antonio, Texas

July 22, 1991  
Rhinehart Music Auditorium  
Texas Southern University  
Houston, Texas

Mr. Chairman. I appreciate this opportunity to appear before you today to discuss the future of the Higher Education Act.

My name is Comer Alden, and I am the President of the San Antonio College of Medical and Dental Assistants, which this year celebrates its 25th anniversary. We have three campuses in Texas--two in San Antonio and one in the Rio Grande Valley--and we also operate the Career Centers of Texas in El Paso. We are currently serving about 550 active students. Our schools offer ten different programs, all related to health care professions. We primarily educate people to become medical or dental assistants, but we also offer training for such professions as surgical technicians, ophthalmic technicians and insurance processors.

I am convinced that the decisions you and your colleagues make when you rewrite this important Act are extremely important. In fact, I believe the bill you draft will be the most important piece of domestic legislation before this Congress.

The actions you take will have a major impact on our nation's ability to meet its needs for a skilled workforce and on the ability of millions of individuals to get the kind of education they need to get good jobs and support themselves and their families.

I understand that you have held dozens of hearings on the complex issues surrounding student aid. While I would be happy to discuss other aspects of the student aid programs, this morning I would like to focus on one particular problem facing many students and schools.

Today many students are being denied access to federal student loans for which they are eligible. I imagine most Americans, and perhaps most members of congress, assume that under the Guaranteed Student loan program any student who is eligible for a loan is actually "guaranteed" of getting one. But that is simply not the case and it is a particularly serious problem here in Texas.

Why is this the case?

First, as you know, most lenders sell the loans they make to secondary markets. Many of these secondary markets (including the giant Sallic Mae) pay less than the full value of the loan when they buy them, thus creating a disincentive to lenders from making the loan in the first place.

Second, many banks are reluctant to make loans to high-risk students. High risk students are more likely to default and lenders and servicers want to avoid the cost of conducting the due diligence measures on delinquent loans.

Third, lenders are paid the same special allowance regardless of the degree of risk or the cost of servicing the loan. In other words, there is a built-in disincentive for them to serve students who need help the most -- those students who the Higher Education Act is supposed to help the most.

Fourth, state laws and regulations often restrict access by establishing additional requirements for student borrowers attending certain types of institutions and students enrolled in short-term and non-degree programs.

Fifth, guarantee and secondary markets discourage lenders from making loans to students attending institutions with certain levels of default rates. As you know, an institution may have a high default rate because it serves high-risk students. The default rate may have nothing to do with the quality of their educational program. Nevertheless, students are denied the opportunity to attend the school of their choice because a guarantor discourages banks from making a loan available.

Sixth, many secondary markets require a minimum average loan size in a loan portfolio before they will purchase the portfolio. This discourages lenders from making smaller loans. It virtually costs the same amount to process a small loan as it does a large one. So some banks have decided not to bother with the smaller loans. Again, this hurts many students in short-term programs.

This restriction can also lead to ironic results. In a recent article in the Houston Business Journal, Ron Sanders, the president of the Council of Houston Area Private Schools and owner of the International Travel Institute, noted that he had encouraged students from borrowing large amounts of money that they may have trouble paying back. Now his banks were telling him that the loans were not big enough to bother with. "It's a catch-22," he said.

As I said earlier, the loan access problem has become especially serious here in Texas, and it is primarily hitting private career schools. Of the 357 private career schools regulated by the Texas Education Agency, 44 closed between last September and May of this year. Many of those closures were the direct result of the loan access problem.

The Association of Texas Lenders for Education (ATLE), a trade group made up primarily of banks that make 90 percent of their student loans within Texas, has issued suggested guidelines for lenders. These guidelines concern me. They were designed to minimize risk for lenders, which is fine, but as a side effect they will cause lenders to discriminate against students enrolled in shorter-term programs, such as those offered at most private career schools.

One criterion clearly illustrates the reason for my concern. ATLE recommends that lenders not lend to students at institutions which have an "average borrower indebtedness" (ABI) of less than \$2,500 per student.

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I would like to underscore the importance and value of educational programs of up to two years in length. It is important to remember that many professions do not require two years of schooling, let alone four. At the same time, many students cannot afford the luxury of being out of the workforce for long periods of time. They need job-specific education in a relatively short period of time and then they need to get back into the workforce.

I hope I have adequately described the problem. But what do we do to ensure that all eligible students have access to loans in order to attend the school that best meets their interests and needs?

To answer this question, I would like to refer to the legislative proposal that has been made by the National Association of Trade and Technical Schools (NATTS) and the Association of Independent Colleges and Schools (AICS). I understand these organizations have submitted their proposal to Congress.

Their legislative recommendation would make a number of improvements that would help ensure that students had access to loans.

**BEST COPY AVAILABLE**



Let me share three of their suggestions with you.

First, they recommend establishing a slightly higher interest rate paid to lenders by borrowers for students who are enrolled in programs of two years or less and borrowers with loan balances of \$10,000 or less. While this would cost these students slightly more, it would provide an incentive for lenders to serve these students.

Second, AICS and NATTS also recommend expanding the non-discrimination provision for creditors to prohibit discrimination based on the type of institution, tax status, or length of the program in which the student is enrolled.

And, third, a lender-of-last-resort program should be part of the designated state guarantor program participation agreement.

All of these changes would help ensure that students have access to the help they need.

Mr. Chairman, I would like to close by asking you to remember that private career schools are an important element in the education of the American workforce. They provide the kind of career-specific, technical education that American business demands and our economy needs to remain competitive.

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As I am sure you are well aware, the positions in health care for which our school educates students are growing.

For 25 years, the High Education Act has opened doors of opportunity for millions of Americans. For 25 years, San Antonio College of Medical and Dental Assistants has opened its doors to prepare thousands of students for rewarding careers. The important decisions you will make in the months ahead could well determine whether those doors remain open.

Thank you.

Mr. WASHINGTON. Thank you, Mr. Alden. I must confess that—I certainly appreciate you have to represent the broad cross-section in your industry, but is it that you feel that the previous problems with proprietary schools are behind us that you did not address it?

Mr. ALDEN. I would love to think that the problems are behind us. They probably are not, but I think you will never see in front of us what you have seen in back of us. I did not know that I was to necessarily address that issue.

Mr. WASHINGTON. Oh, no, no. No, sir. I am not criticizing you for your testimony.

Mr. ALDEN. No. But I think Mr. McCormick talked about accreditation as being less than—it has gotten very strict. Federal regulations have gotten strict. Dee Bednar has tripled her office and gotten very strict.

And any time there is big money involved, you are going to have some smart guy that tries to beat the system. But I would be remiss if I did not say that I think a great deal of the abuse and fraud—that I have to live with every day and that I am ashamed of—a great deal of it has been addressed and will not continue.

Mr. WASHINGTON. I certainly was not—and, please do not take my remarks as being critical of your testimony. You should give us a forward looking perspective because I think that, psychologically as well as realistically, we must look forward.

At the same time, I am certain that you know that those of us in the business of legislating and regulating are going to attempt to find ways in which we can eliminate the bad apples because they give your industry a bad name.

And I certainly do not mean to paint with that broad a brush, but when we speak of regulation I want to make sure that we are singing from the same page, so to speak.

I would feel a lot more comfortable if your industry—and, not today, but in the foreseeable future—I think it would be in the best interests of the industry if you commented upon and made recommendations and suggestions on some of these ideas that are floating around that are already in place, and some of those in the future such as tightening up on accreditation or perhaps making some sort—

I understand the problem that you address with respect to the discrimination, or the alleged discrimination, although, I do not think it is intentional. I think there are some reasons for it.

But perhaps think of some middle ground like a sliding scale, so to speak, so that you could have some—you could leave the door open for a shorter course so you do not end up creating a fraud—an out and out fraud, like Mr. McCormick said—where you end up making a program long enough to qualify the trigger, and you are not fooling anybody.

If there was some sort of sliding scale so that courses that need to be shorter but also have needs where the students have needs for participation, so that we cover the broad range of the spectrum, I think, would be some of the ideas that I think that the Congress would certainly be interested in looking at.

Mr. ALDEN. Well, and I do think our trade association is attempting to address some of those issues. I know that we have stretched

courses, and that is unforgivable. I know we have overcharged, and that is unforgivable. I think these things are being addressed.

Recently—and, this perhaps is off the subject—but the Accrediting Commission of the National Association of Trade and Technical Schools directed me to do a rapid response show call visit in Los Angeles to six schools that we suspected of being involved in hanky-panky.

And we walked in with a show cause letter at 8 in the morning and scared the living daylights out of them. And I think they will be closed down. This is a new thing that we are beginning to do, to police ourselves.

And I hope no one ever comes to my door the way I had to come to someone else's door, but it was—and, then I have just sent for my director's—they are now required by the Commission to attend a training session prior to writing your self-study, which comes up every 4 or 5 years for renewal; your accrediting.

And they just came back absolutely dumbfounded at the work that they are going to have to do that they did not have to do 5 years ago. So yes, I—and, as far as Congress is concerned, you know, bring it on us; just lay it on us. And the good schools can take it.

Mr. WASHINGTON. Yes, sir. I did not mean to suggest that. We are weighing and trying to reach some accommodation and some balance because we recognize that the vast majority of proprietary schools are both needed in the community, serve a useful purpose, and ought to be encouraged to continue their work.

It is a matter of trying to take a rifle and, if you will, knock the ones off the limb that should not have been there to begin with. Strengthen the hand of State agencies so that they have the enforcement tools that they need to be able to go in and deal realistically with accreditation.

At the same time, perhaps I think as Ms. Bednar or perhaps Mr. McCormick stated, we may need to look at the difference between the requirements for licensure or accreditation, and vis-a-vis the requirements that one ought to threshold meet in order to qualify for students to receive financial assistance from the Federal Government.

In the past, I think we have lumped those together and assumed that one set of standards apply to both. And now upon reflection and, quite frankly, on the benefit of some bad experiences, we need to step back and look at that.

And we want to work with you. And certainly the testimony that you offered is most helpful and critical in that regard.

Let me ask Mr. Wolanin if he, who is our counsel, the staff director for the committee—the one who keeps all of us in line, from the Chairman, to all of the members of the subcommittee—if he has any observations or questions that he would like to ask.

Mr. WOLANIN. No. Thank you, Mr. Chairman.

Mr. WASHINGTON. Okay. Well, then, let me thank you once again for the illustrative testimony that you have offered covering a wide range of subjects. And I believe, going from General Becton, who I believe was the first witness, to Mr. Alden, we have really had a most enlightening set of panels, and you have added greatly to the body of information that the committee will have available to it.

Before we adjourn, may I take this opportunity on behalf of Texas Southern University, our host for this occasion, to call your attention to a flier that has been handed out, and to invite you to a reception which is given in honor of the subcommittee this afternoon.

They had originally planned it from 2 until 4. They have moved that time up to 1:30 because of the early hour at which we are going to complete our work. I believe the fliers are available near the entrances so that you can get the details of that.

And those of you who are able to, I know it would be appreciated by Texas Southern University if you could at least stick your head in, realizing that you all are busy people and have many other things to do.

Let me, once again, thank Texas Southern University for being our host on this occasion, and I would like to thank all of the people who came in the audience who were, frankly, the most important people, because you have the opportunity to hear the same thing that the Congress has heard with respect to a very important issue.

You have demonstrated by your presence that you are interested in this area and one that I think is most important to all of us. Many times, we use experiences from the African-American community as an example, as I will on this occasion.

But I am certain I need not say to any of those who know me that when I use that, I do not mean that to distinguish from any other community. I think that Congress ought to serve all people, and I try to serve all people without regard to race or any other reason that we use to divide God's creatures from each other.

It is a problem for the total community, not just for the black community, that there are more black people in prison than there are in college. We have to do something about that. We have to ensure that education is important from pre-kindergarten to prison.

It seems to me that one of these days, the light will come on for our State legislators, of whom I was one recently, as you know, that there is something terribly illustrative about the fact that over 90 percent of the people in prison are high school dropouts.

If we had the courage and the foresight to look down the road instead of trying to find some immediate solution that we think satisfies the voters at least temporarily, we would have the courage and foresight to perhaps require that everyone who gets out of prison has a high school degree at least, or its equivalency.

I think that has something to do with recidivism but, then again, that is off the subject. It seems to me that, again, that education ought to be one of our most important products from pre-K through prison, and all in between.

And it seems to me that working together with people like the witnesses who have testified and like the people in the audience who are dedicated and committed to education, that one day that dream will come true.

You have made a valuable contribution to assisting us and fostering and nurturing and carrying forward that dream. You have explained from proprietary schools, to the loan process, to what has been done in the State of Texas and from the national perspective

of National Education Association, and from the students and the administrators.

You have given the committee additional information upon which we will have very shortly to make very important decisions. Tom tells me that he thinks that after the summer recess and when we return from Labor Day, the committee will begin the task of marking up this bill and reporting it to the House.

I ask all of you to stay in touch with us and stay in tune to what we are doing. If we are not doing it the way that it ought to be done—and, you know better than we do how it ought to be done—pick up the phone and call or write us. And remember that we serve you.

Thank you for coming, and God bless you. The committee stands adjourned.

[Whereupon, at 12:50 p.m., the subcommittee was adjourned.]



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